

**COLLEGE RECRUITING: ARE STUDENT ATHLETES
BEING PROTECTED?**

HEARING
BEFORE THE
SUBCOMMITTEE ON
COMMERCE, TRADE, AND CONSUMER PROTECTION
OF THE
COMMITTEE ON ENERGY AND
COMMERCE
HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

MARCH 11, 2004

Serial No. 108-64

Printed for the use of the Committee on Energy and Commerce



Available via the World Wide Web: <http://www.access.gpo.gov/congress/house>

U.S. GOVERNMENT PRINTING OFFICE

92-541PDF

WASHINGTON : 2004

For sale by the Superintendent of Documents, U.S. Government Printing Office
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COLLEGE RECRUITING: ARE STUDENT ATHLETES BEING PROTECTED?

THURSDAY, MARCH 11, 2004

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
SUBCOMMITTEE ON COMMERCE, TRADE,
AND CONSUMER PROTECTION,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2123, Rayburn House Office Building, Hon. Cliff Stearns (chairman) presiding.

Members present: Representatives Stearns, Whitfield, Shimkus, Shadegg, Bass, Bono, Terry, Issa, Otter, Sullivan, Schakowsky, Towns, Green, McCarthy, and Degette.

Staff present: David Cavicke, majority counsel; Jon Tripp, deputy communications director; Brian McCullough, majority professional staff; Jill Latham, legislative clerk; and Jonathan J. Cordone, minority counsel.

Mr. STEARNS. Good morning. The subcommittee will come to order.

Today, my colleagues, we will consider rules governing recruiting student athletes and the enforcement of those rules by our Nation's colleges and universities. The subcommittee has jurisdiction over activities in interstate commerce. The subcommittee has had a long history of oversight of the National Collegiate Athletic Association, a member organization of colleges and universities, whose purpose is to promote amateur collegiate athletics.

Commerce is certainly implicated. The NCAA produces multiple products or content, as our friends in the telecom world call it, which is sold on cable and over the broadcast networks for hundreds of millions of dollars each and every year. College athletics is big business. Star football coaches are now routinely paid millions of dollars a year, and are the highest paid persons working for State government.

Universities jump to different conferences with the stated purpose of producing conference title games and bigger payouts from TV networks. Lawsuits are filed over the distribution of money from the NCAA tournament and the Bowl championship series.

State taxpayers are presented with bills or debt for a new sports stadium in order to remain competitive with league rivals. Some in college athletics have referred to this spiraling of spending as an arms race. Amid all this commerce and money, the question arises: what happens to the student athlete?

In the past 5 years, the NCAA has adjudicated over 60 major infraction cases, over 40 of which were related to recruiting. Press reports have focused on the following recruiting practices—the payment of a finder fee of \$200,000 by a booster to high school coach with the knowledge of some athletic department to guarantee the enrollment of a star player in a favored university, the recruiting of athletes with felony convictions, and the use of strippers and allegations of procurement of call girls for recruits.

Additionally, there is the question of what kind of education elite athletes in football and basketball receive after they sign their letter of intent. Graduation rates for athletes in football and basketball are very low. Often less than 50 percent graduate. Some universities take in the players, use them to generate huge revenues, and then spit them out without a degree. Most student athletes do not make it in the ranks of professional sports.

The Washington Post and The Weekly Standard reported the questions of an actual final exam to students at a major State university. The class was titled Coaching Principles and Strategies of Basketball. The multiple choice questions included the following. How many goals are there on a basketball court? How many points does a three-point field goal account for in a basketball game? How many halves are there in a college basketball game?

My colleagues, I submit that students taking courses like this were cheated out of a real education. Perhaps less emphasis on the commercial aspect of college sports, the winning at any cost, the hype and the payouts from Bowl or tournament participation, and more on the older ideal of honorable competition among athletes who are, first and foremost, students would be good.

Athletes in track and field, swimming, wrestling, and other sports without a large professional following are better integrated into college life. There are bona fide students who happen to be good athletes. The quest for winning doesn't have to be to the exclusion of all else.

The NCAA has detailed rules governing the recruiting and eligibility of college recruits, and these rules are pretty good. The enforcement side, of course, is another matter. The NCAA has, I understand, about 12 persons dedicated to enforcement—about one for every thousand members of the NCAA.

Oversight enforcement is the responsibility of the member colleges and the universities. Ultimately, the president of each institution should be held accountable for enforcing these rules.

Today we will hear from two universities—the University of Colorado and Vanderbilt University. We are joined by Mr. David Williams, the Vice Chancellor of Vanderbilt, and President Betsy Hoffman of the University of Colorado. I commend President Hoffman for coming today to answer our questions about the very serious allegations of misconduct at the University of Colorado.

Our inquiry is to recruiting and its enforcement. The supervision by the administration of the athletic department is part of that inquiry. The allegations of criminal behavior are appropriately examined in another forum, that of the Boulder District Attorney and the courts themselves.

I am also delighted that my colleague Tom Osborne, a Member of Congress representing Nebraska's 3rd District, is here. Mr.

Osborne is perhaps the greatest college football coach who did not coach the Florida Gators.

We look forward to his insights. We will also hear from David Berst of the NCAA and Don McPherson of the Sports Leadership Institute. We look forward to all of your testimony and appreciate your time.

And I would also like to welcome Bob Beauprez to the committee from the great State of Colorado. Bob, thank you for coming. With that—

Ms. SCHAKOWSKY. I thank you, Mr. Chairman, for holding this hearing, and I thank all of the witnesses for agreeing to testify today. And I also welcome our colleague Tom Osborne to this committee this morning.

This is a very, very serious matter, and I think it is important that we examine what really happens when our young men are recruited for sports programs. It is important that rules and structures are in place to prevent the types of occurrences on recruiting trips that we have been reading about too frequently in the news these days, particularly involving alcohol, drug use, and violence against women.

I believe it is important that administrators at all schools involved, as well as NCAA officials, take all allegations seriously and put forth concerted efforts to truly change what seems to have become common practice in the business of student athlete recruitment.

We have heard a lot about the University of Colorado. Obviously, parties that involve sex and alcohol to lure recruits and end in sexual assault are intolerable, not to mention illegal, beginning perhaps with underage drinking. We know that Colorado University has a history of problems with its recruiting practices, and allegations that recruits and players at Colorado University have assaulted women are not new.

I know the university has taken some steps to investigate this situation and to reform its recruiting rules, and these are very good first steps. However, I am concerned that it took a great deal of media attention to spur recent actions. I hope this will not be the end of the story and that further proactive measures will be taken to truly reform the culture of athletics and recruiting at that school.

I am eager to hear from Colorado's President, Dr. Elizabeth Hoffman, about how the school plans to prevent such misconduct and sexual violence in the future and deal with problems in a more effective way when they do arise.

I hope that Colorado University will act in such a way that it does become a model program. As a mother who sent my two children to the University of Colorado, I want to say that the remarks of Coach Barnett were absolutely unacceptable. And if I were in charge at the university, he would have been fired.

The University of Colorado is not the only school caught up in scandal. A quick look at the headlines from the last couple of years reveals that the University of Iowa, the University of Kentucky, Alabama, Georgia, Minnesota, to name a few, have all been in the headlines as a result of allegations of misbehavior and alleged sexual violence related to recruiting practices and recruiting trips.

I am concerned about the culture in our top university athletic programs and, indeed, a culture that persists throughout the Nation that tolerates such violence against women. This hearing today is very timely, as Lifetime television and a host of national domestic violence and sexual assault advocacy organizations are on the Hill hosting Stop Violence Against Women Week in order to raise awareness of this issue.

Nearly 1 in 6 women will be sexually assaulted in her lifetime, and teens and college-age women have a higher risk of being sexually assaulted than women in any other age group.

This briefing is entitled “Are Student Athletes Being Protected?” I would like to add: are the female students and other women who are in contact with such athletic programs being protected? It saddens and angers me that there is no shortage of stories we could talk about today involving sexual assault and student athletes.

I am eager to hear Mr. McPherson’s perspectives on this issue, as a former college and professional football player, and now as someone who has dedicated his career to ending a culture of violence against women in sports. He brings a unique and valuable perspective to our subcommittee.

I am also eager to hear from Mr. Berst about what the NCAA plans to do to address what I see as one of the root problems—an athletic culture that tolerates and perpetuates the degradation and objectification of women. I know the NCAA has many rules and regulations regarding the logistics of recruiting programs, and I am encouraged by that. I am hopeful that the new NCAA Task Force on Recruiting will go beyond logistics and put in place standards for our student athletes that we can all be proud of.

Finally, academics should not be left behind in this debate. It is critical to remember that we are talking about student athletes.

I am looking forward to hearing from Mr. Williams about the example of Vanderbilt University and what they have done to lessen the culture of competitiveness and bring the focus back on academics.

Again, I thank you all for being here and look forward to hearing what you have to say.

Mr. STEARNS. Mr. Shimkus.

Mr. SHIMKUS. Thank you, Mr. Chairman. Could you go over the answers to those questions? I got 2 out of 3 right. I don’t know which—

Mr. STEARNS. Okay.

Mr. SHIMKUS. No, I am just—it is great to be here. Let me tell you, as many folks know, I love athletics. And as Tom Osborne can confess, I participate and play as much as possible, even in my broken down state as it is.

Sports and competition, done properly, teach all the right lessons—hard work, teamwork, commitment, sacrifice, working through pain. But the big business nature of sports at all levels—high school, collegiate, and even in professional sports—has really corrupted this process.

I applaud the chairman for calling this hearing, and it is our continued oversight in this area that continues to be very, very important.

I also welcome Tom Osborne, who is loved in Nebraska and highly respected here as the representative of the 3rd District of Nebraska. I look forward to his testimony.

I yield back my time.

Mr. STEARNS. I thank the gentleman.

Ms. DeGette.

Ms. DEGETTE. Thank you, Mr. Chairman. Flights on private jets, lavish meals at fine restaurants, weekends at four-star hotels, police escorts—while this sounds like the life of a movie star, it was standard treatment for Willy Williams, a sought-after high school athlete recruited to play football by several major universities in Florida.

Unfortunately, there is more—abundant boos, illicit drugs, strip clubs, prostitutes, and sex parties. This is not the seedy underbelly of professional athletics or rock stars, but the not-so-hidden practice of colleges and universities recruiting high school athletes to play football or basketball for them.

We do not know how pervasive these incidents are, but we do know that far too many allegations have surfaced concerning recruitment at far too many schools. Anyone reading the stories about these incidents has got to wonder what in the world is going on when coaches and administrators allow young men, some only 16 or 17 years old, to enter into these situations.

That is why this hearing today is so important. We need to determine whether there are systematic problems contributing to alleged sexual assaults by recruits and student athletes and unsavory, if not downright illegal, recruiting practices.

While the most recent publicized allegations are at my own State university, the University of Colorado, and helped spur this hearing, regulations of amateur athletics have long been a concern of this committee.

And, Chairman Stearns, I want to thank you for putting together this panel.

I also have the special privilege of welcoming our witnesses here today. I hope they are able to help shed some light on how pervasive current recruiting problems are and what can be done to fix them. In particular, I would like to give a special welcome to Betsy Hoffman, the President of the University of Colorado.

President Hoffman, we all understand how busy you are right now, and we really appreciate you taking your time to come and share your insights on both CU and, most particularly, national college recruiting programs.

I also want to acknowledge President Hoffman for announcing last week a set of significant reforms to the recruiting practices of the University of Colorado's football program. I hope this is a model that she will extend to all of the university's athletic programs.

College recruiting, however, is a nationwide practice that demands nationwide standards. In the highly competitive environment of Division I athletics, coaches are scouring high schools across the country to find the most talented recruits for their programs. This puts schools and recruits under tremendous pressure.

Despite the national scope of recruiting and the fact that colleges and universities across the country are recruiting athletes far out-

side of their home states, the NCAA does not seem to have clear standards as to how recruiting trips are conducted.

We all understand this intense competition for high school athletes. In preparing for this hearing, though, what was truly eye-opening was to see how many allegations there were of incidents of alcohol and drug use and sexual incidence at colleges and universities across the country.

Allegations of the use of prostitutes, sex parties, booze, drugs, and late nights at strip clubs have popped up all over the place. My staff put together a chart of 22 alleged violations around the Nation, around the country, in just the last few years. And this is only the information in the press. Think of how many allegations are there that have not been put to light in the press.

Mr. Chairman, I would ask unanimous consent to put this in the record.

Mr. STEARNS. Unanimous consent, so ordered.

Examples of Reports of Sexual Assaults and Recruiting Violations by NCAA College Athletic Programs, 2000-2004

A sample of allegations of inappropriate or illegal conduct by high school recruits during college visits or college athletes.

School	Dates	Description	Source
Baylor University	2003	Coach Bliss paid students tuition, failed to report the findings of drug tests. A player was also murdered and a teammate was accused of his murder. On 2/27/04 the university turned over the results of an internal investigation to the NCAA. There will be a hearing in front of the NCAA infractions committee..	ESPN.com
California State University at Fresno.	1998-1999	Placed on probation (10/24/03). A student athlete was given athletically related financial aid even though he was not enrolled in a full time program. He was also found not to be maintaining satisfactory program towards his degree. He was only at CSU part time and was simultaneously completing courses at a Junior College..	NCAA Press Release
Miami, University of Florida, Florida State University.	2003-04	Miami recruit Willie Williams violated his probation during a Jan. 30 recruiting trip to Florida when the linebacker allegedly touched a woman without her permission, hit a man at a bar and set off fire extinguishers at his hotel. Williams was less than two weeks from the end of his probation, which stemmed from felony burglary charges in 2002..	http://www.kusports.com/news/recruiting/story/109658
New Mexico State University.	June 2001 (placed on probation).	Head Coach hired a coach from a Junior College on the agreement that two of his prospects would come with him.	NCAA Press Release
Southern Methodist University.	1995	Placed on Probation for two years. In the fall of 1995 an assistant football coach met with a father and prospective student in their home, which breaks several recruiting by laws..	NCAA Press Release
Tennessee State University		Placed on probation for violations in Men's Basketball Program. The head coach observed numerous pick up games for the purposes of selection..	NCAA Press Release
University of Maryland College Park	August 2003 (placed on probation).	An assistant football coach made inperson recruiting contacts. On five different occasions the coach gave a prospect of cash ranging from \$5 to \$200..	NCAA Press Release

Examples of Reports of Sexual Assaults and Recruiting Violations by NCAA College Athletic Programs, 2000-2004—Continued

A sample of allegations of inappropriate or illegal conduct by high school recruits during college visits or college athletes.

School	Dates	Description	Source
University of Alabama	2000	A businessmen paid high school coach for the privilege of selling Albert Means to UA. Alabama was put on five year probation by the NCAA, and reduced the number of scholarships by twenty one. The businessman and the coaches at the high school and UA were were involved in a federal trial and were prosecuted and were incarcerated..	ESPN.com
University of Alabama	2002	University of Alabama was put on probation after it was disclosed that strippers entertained recruits at parties..	Oregonian 2/21/04
University of Arkansas Fayetteville	4/17/03 (placed on probation).	Placed on three years probation. A businessman who represented the University athletics institutes employed two athlete both prior and post there career at the University..	NCAA Press Release
University of Georgia	2001	UGA assistant basketball coach found to have given friend of recruit \$300 to entice him to go to school..	Red and Black (Univ. of Georgia)
University of Iowa 2004	High school recruit had sexual with a female student from the University of Iowa..	AP, 3/7/04
University of Kentucky	Placed on probation in Jan 2001.	Numerous recruiting violations within the basketball team. The NCAA infractions committee put the team on probation for three years, banned it form the bowl for a year, and reduced its scholarships..	The Courier-Journal (Louisville Kentucky)
University of Minnesota	2003	Highly touted recruit Lydon Murtha spurned Minnesota after Gopher players took him and three other recruits—one of whom was 17—to an 18-and-over strip club during a December campus visit. More Minnesota recruits later acknowledged they had been taken to a strip club during other recruiting weekends..	http://www.kusports.com/news/recruiting/story/109658
University of Missouri	Investigation launched. Sept 2003	Point Guard Ricky Clemons did not have the necessary academic qualifications. An investigation has been launched..	ESPN.com; AP News Stories
University of Nevada-Las Vegas.	2000	Representative of the university's athletics interests provided cash to a prospect on numerous occasions totaling approximately \$5,600. A representative of the university's athletics interests provided cash payments to a prospective student-athlete and an enrolled men's basketball student-athlete..	http://www.ncaa.org/enforcefrontF.html
University of Oregon	2003	Father of recruit alleges that his son was offered sex, alcohol and marijuana during recruiting trip to UO..	Oregonian 2/21/04
University of Washington	2001	Four women in separate cases sued the University of Washington and UW football players alleging they were sexually assaulted. The 2004 lawsuit alleged that UW negligently recruited and supervised the football player named as the assailant..	http://www.dailyvanguard.com/vnews/display.v/ART/2004/03/02/404439f0d84f7
University of Washington	UW faces NCAA allegations that a lack of institutional control led to gambling violations by Neuheisel and other athletic-department employees. The department is also the subject of an internal inquiry into the drug-dispensing practices of a former UW team doctor..	http://www.dailyvanguard.com/vnews/display.v/ART/2004/03/02/404439f0d84f7
University of Wisconsin	2004	Running back Dwayne Smith was jailed Monday on suspicion of sexually assaulting a 19 year old woman..	Cleveland Plain Dealer

Examples of Reports of Sexual Assaults and Recruiting Violations by NCAA College Athletic Programs, 2000-2004—Continued

A sample of allegations of inappropriate or illegal conduct by high school recruits during college visits or college athletes.

School	Dates	Description	Source
University of Wisconsin	2004	UW basketball player Boo Wade charged with assault after choking woman in her apartment..	Cleveland Plain Dealer
Virginia Tech	2004	Virginia Tech also created a stir when Marcus Vick was charged last week with four counts of contributing to the delinquency of a minor. According to police, Vick and two teammates served liquor to three underage girls at Vick's apartment. Vick also is accused of having sex with one of the 15-year-old girls..	The Virginian-Pilot (Norfolk, Va.)

Ms. DEGETTE. Thank you. Iowa, Michigan, Oregon, Alabama, Florida, Minnesota—these are just a handful of the universities where there have been allegations of sexual assault and/or reports of sex at recruiting parties. If this isn't an indication that we are dealing with a deeply rooted institutional problem, I don't know what else it would take to make the public and lawmakers sit up and take notice.

The NCAA must commit to doing its part to not just lip service but actually making sure that college sports programs across the country are run with integrity, excellence, and respect, and an eye toward the academics.

Finally, the NCAA appears to recognize there is a problem here. I am looking forward to the testimony today about what they intend to do about this problem.

I thank the chairman for holding this hearing again, and I look forward to hearing all of the testimony, and yield back the balance of my time.

Mr. STEARNS. And I thank the gentlelady.

I would remind all members, if you want to forego your opening statement, then we would add it to your time for questioning.

Mr. Otter.

Mr. OTTER. Thank you, Mr. Chairman. May I inquire of the chair, are we supposed to have 3 minutes for our opening?

Mr. STEARNS. Three minutes.

Mr. OTTER. Oh.

Mr. STEARNS. We will add that—if you don't use—

Mr. OTTER. I didn't want to get caught in an infraction here.

Mr. STEARNS. Okay.

Mr. OTTER. Well, thank you, Mr. Chairman. And I want to welcome my seat-mate and colleague and freshmen classmate Mr. Osborne to the chamber, and I look forward to hearing his testimony as well as I do the rest of the witnesses.

Certainly, recent events surrounding the possible violations of NCAA rules—recruiting rules—have made big headlines. As a former college athlete, I understand the role amateur athletics can play in an educational experience. And for many, as it served for me, it serves as a means to otherwise apply for an expensive college education.

The NCAA has taken great efforts to put in place a number of rules designed to protect and preserve the amateur athlete as well

as uphold the reputation of the institution and their membership. I am not sure what role, if any, that Congress should play in regulating or investigating specific alleged violations of any NCAA rules.

However, it would be appropriate for Congress to intervene if the NCAA rules or its members create a recruiting environment that relies on practices that violate the laws of this land or demonstrate a propensity to wilfully impair student athletes. At present, I believe that the NCAA has acted appropriately when necessary to investigate and punish violators of the NCAA rules.

As an outsider looking in, it seems to me that the onus is on the individual collegiate institutions and on the student athletes to abide by these regulations. When rules are broken, consequences should follow. When rules provide to be inadequate, then the ruling body—and in this case the NCAA—should investigate why and act accordingly.

I believe in the lessons that are taught in the classroom, and I also believe in the lessons that are learned on the playing field. It is important to retain the integrity of competition. It is an injustice to our youth when those who have the power to influence and teach our children for the better set examples for the worst.

I look forward to hearing the testimony of the witnesses, and I thank you, Mr. Chairman, and I yield back the balance of my time.

Mr. STEARNS. I thank the gentleman.

Mr. Green.

Mr. GREEN. Thank you, Mr. Chairman. I would like to ask unanimous consent to place the whole statement in the record.

Mr. STEARNS. By unanimous consent, so ordered.

Mr. GREEN. And I will be very brief. One, like my colleagues, I appreciate your calling this hearing with the recent publicity at the University of Colorado. But, again, this is a problem with every one of our institutions, and I appreciate Congress looking at it. Hopefully, the NCAA will be aggressive in dealing with this problem, not just in Colorado but all across the country.

And I yield back my time.

Mr. STEARNS. Mr. Issa.

Mr. ISSA. Thank you, Mr. Chairman. I regret that Coach Osborne probably will not have the time to explain to the chairman all of the lessons he had taught the Gators over the years through his practices. However, I would appreciate if Congressman Osborne—Coach Osborne and also Professor Osborne could help us.

As we look at collegiate sports, which is our area of jurisdiction, I believe it is helpful to have somebody who has seen higher education not only as an athlete and an instructor, but also as a professor at large, to give us a contrast of what we are looking at today as some of these alleged violations, which we won't be dealing with, but sort of the culture of the college campus.

I, for one, am personally concerned that we are pointing to excesses of athletics and perhaps not looking enough at a pervasive problem that exists on the college campus. These allegations by athletes, although well reported, pale in comparison to the attacks that occur on campuses around the country, pale in comparison to the amount of alcohol and drug abuse that is going on with non-athletes.

And so hopefully these hearings, although it is not within our jurisdiction, will put into perspective the problems which the NCAA will have to deal with within a culture that exists on college campuses that without a doubt also has to be addressed.

And with that, I yield back the balance of my time.

Mr. STEARNS. I thank the gentleman.

Ms. McCarthy.

Ms. MCCARTHY. Mr. Chairman, I am going to put my remarks in the record. I thank you and Ranking Member Schakowsky for convening this important hearing today, especially as we celebrate the 10th anniversary of the Violence Against Women Act.

Thank you.

[The prepared statement of Hon. Karen McCarthy follows:]

PREPARED STATEMENT OF HON. KAREN MCCARTHY, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF MISSOURI

Thank you Mr. Chairman and Ranking Member Schakowsky for convening this important hearing today. It is particularly timely as we recognize and celebrate the 10th Anniversary of the Violence Against Women Act. I cannot think of a more appropriate way to commemorate this important week than to hear from those involved in these recruiting practices. I am especially interested to hear from the panel on the connection between high school and college athletes and the culture of objectification of women. We on this committee know that in order to effectively address this problem, we need to address the culture of these practices as well as the enforcement of the rules governing athlete recruitment.

The excitement of private jets and lavish parties—all of which seems to be allowed under the NCAA's rules—is all consuming. There is no doubt about it, college sports have become a big business and the drive to recruit star athletes has led to a multitude of practices that neither the Universities nor the NCAA should tolerate. As we have seen, merely turning a blind eye to what is occurring is a poor solution.

I am eager to hear the testimony of the witnesses today and to assess their recommendations on what else can be done to make sure that student athletes are recruited to schools in accordance with NCAA rules.

This issue of recruiting college athletes hits particularly close to home for me. In my own state of Missouri, the University of Missouri's athletics department has had its own set of problems but it is now actively working to ensure that they are not repeated. They have made important changes to their student host program to ensure that high school athletes receive an idea of what it is like to be a student, as well as an athlete, at the University of Missouri. Student hosts are only used for on campus events and tours, not for off campus events. Further, all of the university's student athletes are involved in awareness-raising in terms of violence against women and are encouraged to talk about it.

As a big 12 school, there is pressure to attract the brightest stars in high school athletics. But that should not give them a blank check for inappropriate tactics that expose young athletes to illegal activity. Recognizing this, the University of Missouri has also convened a group, chaired by a faculty member, which is reviewing the allegations of athlete misconduct. We must recognize that the University of Colorado is not the only educational institution to confront recruiting infractions and poor judgment among student athletes and those who recruit them. These practices are occurring at universities across the country.

I commend President Hoffman and the other witnesses for taking this important issue very seriously. I look forward to hearing from them.

Mr. STEARNS. Mr. Terry.

Mr. TERRY. Thank you, Mr. Chairman. I have a couple of distinct privileges this morning. One is I have three gentlemen from Omaha Crayton Prep High School that are out here visiting with NYLC. And we were just chatting before this hearing started, because Crayton Prep in Omaha is known as really an athletic powerhouse. And, in fact, people in the community are expecting Omaha Crayton Prep to be probably the most dominant football program in the State of Nebraska next year.

Now, these three gentlemen, I don't know if they play football or not, but they told me they are not being recruited for athletics, but several of their classmates are and will have to sort through the issues that we are going to discuss here today. Because there is a culture, not only on campuses, as Darell had mentioned, but a competitiveness within recruiting.

And the talk radio sports shows, they are all talking about the University of Colorado, but really what they are also saying is they are just the ones that have been caught so far in these type of things. This is pervasive throughout college athletics. And you get little bits and pieces of it.

In fact, University of Nebraska obtained a commitment from a gentleman from the Minneapolis area who had previously committed to University of Nebraska. This kid's name is Mertha. And he was upset that when he went—took his official visit to that campus—University of Minnesota—that his host took him to a strip club. And he comes from a very Christian family, and decommitted after that.

What upset me the most was how the local press indicted this kid, a 17 year-old, for being mad that he was taken to a strip club, and just ripped him apart. And I would like to submit a Minneapolis Tribune article for the record.

Mr. STEARNS. By unanimous consent, so ordered.

Mr. TERRY. And I would like to hear from Tom Osborne and our other panelists just how pervasive this is and what the cures are. Or is it bigger than just football or athletic recruiting, and it is something we have to deal with—the culture of alcohol and drinking and these type of parties on campuses today.

Now, with the last 30 seconds that I have, as a fellow Nebraskan it is my honor to welcome to our subcommittee my good friend, doctor, congressman, coach, Tom Osborne, who—his values in Nebraska really defined the football program there. And while I am sure over his nearly, what, 18 years as a coach, were incidents with certain players, but certainly fought to have a good culture inserted into the process, and really recruited good kids to come to the University of Nebraska.

And over that period, yes, defenders of the program can take pride in that, and trackers of the program over a long career can point to one or two incidences. And I think that speaks well of Tom Osborne and the Nebraska program.

So welcome, Congressman Osborne, to our subcommittee. We are looking forward to your testimony.

Yield back.

Mr. STEARNS. I thank the gentleman.

Mr. Towns.

Mr. TOWNS. Thank you very much, Mr. Chairman, for holding this hearing today. You know, I have been involved in this issue now for many, many years, with Bill Bradley. And, of course, Tom McMillan and I passed the Student Athlete's Right to Know.

And, of course, I have been amazed at the attitude at all levels, in terms of even when we were working on the Student Athlete's Right to Know, how presidents and administrators said that they could not give this information, which was basically asking to give the graduation rate of the athletes that attend the university, and,

of course, information that they had. And they were really resistant and fought it in every way, which points out why we have some of the problems today.

And I look forward to this hearing from the witnesses today. It is important to remember that the players on the court, the field, the track, or the diamond, are students as well. And the vast majority of these athletes will not go on to a career in professional sports. So it is critical that these students receive the education and life skills needed to succeed after a career in college athletics.

I also note that most of these students participating in the major revenue sharing sports, like football and basketball, often come from the most disadvantaged background in this country. Consequently, they need the greatest support system to succeed. The recent recruiting headlines point out that there is pressure to do whatever it takes to win. However, fixing this problem will not change what happens once the athlete gets on campus and becomes a student.

I salute Mr. McPherson for his testimony today on this issue, and, more importantly, his work in this area. Clearly, with the millions of dollars generated by the NCAA, tournaments and, of course, the BCS system, there is more we can do to help our student athletes in the transition. And I think that one thing that we need to do is make certain that they have a strong tutorial program that when youngsters come on the campus that they will be able to get this kind of assistance and this kind of advice to help them to make the adjustment. And I think that no emphasis at this point seems to be placed on that. Just a few colleges, you know, seem to stress it, and others do not.

So, Mr. Chairman, I am hoping today that we will hear from our witnesses and be able to get some information as to how the Student Athlete's Right to Know is working and to come up with some ways and methods that we might be able to bring about some solutions to this problem. It is widespread, let me tell you. It is more than what meets the eye. More than what we read in the paper is going on, and the time for it to stop is now.

And on that note, I yield back.

Mr. STEARNS. I thank the gentleman.

Mr. SHADEGG.

Mr. SHADEGG. Thank you, Mr. Chairman. I want to express my appreciation to you for holding this hearing, and also my appreciation to all of the witnesses who are here today to testify before us and share their perspective and their thoughts on this important issue.

As we begin the hearing, I think it is important to keep in mind the distinction between our Nation's laws and the NCAA's rules or bylaws that are before us. I think Mr. Berst from the NCAA well articulated that difference in his written testimony, and it is important for us to consider this because I believe we have to respond differently to each of those points.

I think for this committee our first obligation is to look at the enforcement of our Nation's laws on college campuses. Many of the allegations that have arisen relating to sports in the past months have been violations of law, and that is, after all, what we have to focus on.

We must ensure, I believe, that the victims of those crimes, if they are in fact crimes, feel they can come forward and seek justice. And I think colleges and universities have an important responsibility to ensure that those victims are treated appropriately when they come forward and they are not subjected to abuse or harassment. They need to be able to feel they can come forward.

With regard to the NCAA and its bylaws and the rules, I am interested in hearing how the NCAA plans to respond or is responding to the many issues that have been raised. I think it is important for the NCAA to recognize that it has an incentive to police itself, because a system that's susceptible to corruption taints not only every school and every athlete, but I think it taints every student at those schools. And it is a serious problem which we have to address.

Mr. Chairman, I want to again thank our panels of witnesses and thank you for conducting this hearing.

I yield back the balance of my time.

Mr. STEARNS. I thank the gentleman.

And we are welcoming for the first time Mr. Sullivan from Oklahoma for an opening statement. Welcome, and appreciate your attendance.

Mr. SULLIVAN. Thank you, Mr. Chairman. It is an honor to be here, and I appreciate your putting on this hearing. I don't really have an opening statement. I just want to thank Coach Osborne for being here. No one knows more about this subject than him in this room, or in Washington, or probably the country. So I am anxious to hear what he has to say about a solution to all these issues that we face.

Thank you very much for being here.

Mr. STEARNS. Thank you.

Mr. Whitfield.

Mr. WHITFIELD. Mr. Chairman, thank you very much. I would like, first of all, to introduce a couple of constituents of mine who want to see this hearing—Brittany Dorris right here, and then Rhea Badgett, who by the way has received an athletic scholarship to an NCAA college for golf. So she has been recruited and knows a little bit about some of these recruiting issues.

I know we have given a lot of accolades to our colleague Tom Osborne. I do think we are very fortunate to have him in the Congress and to testify on this particular issue, because of the experiences that he has had as a head coach and recruiting. We know he had a successful program, and we also know that it is very difficult in today's world with all of the pressures on college athletes and coaches and university presidents to run a good, effective, and clean program.

I am particularly pleased with the panel of witnesses that we have, because I think we are going to get a balanced look at the issue. I notice that in the memo for this hearing it—our staff pointed out—it mentioned that a University of Miami football program signed—gave a letter of intent to a recruit who had been charged with 10 theft charges and probation violations.

And on the surface that looks very, very bad, but on the other hand this may be a young man who never had really many opportunities in life. And maybe if he gets within a structured program

of discipline, then maybe it can help him. So I think there's a number of different ways to look at this.

I am particularly delighted that Dr. Elizabeth Hoffman is with us today from the University of Colorado, and I know that she has already taken steps on her own initiative there at the university to help address some of their concerns. So we look forward to her testimony.

And I yield back the balance of my time.

Mr. STEARNS. I thank the gentleman.

Mr. Bass.

Mr. BASS. I will waive.

Mr. STEARNS. The gentleman waives his opening statement.

[Additional statements submitted for the record follow:]

PREPARED STATEMENT OF HON. BARBARA CUBIN, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF WYOMING

Thank you, Mr. Chairman, for holding this hearing. It provides the subcommittee with a valuable opportunity to explore numerous issues relating to the recruitment and subsequent treatment of collegiate athletes by the NCAA and their member institutions.

I would also like to thank the distinguished panelists that have joined us today. Your testimony and first-hand insight is valuable in shaping the discussion about what path to take in this arena.

Recent legal allegations have produced overwhelming public concern over the manner in which potential athletes are recruited. However, records show that NCAA recruiting violations have hardly been limited in scope or extent to the experiences of a single institution. Both Colorado University and the NCAA have responded responsibly to national criticism by proactively initiating reforms and evaluating current recruiting policies.

Both the NCAA and its member institutions want student athletes to have safe and positive experiences, and I think they can work collectively to achieve this end. Recruitment is merely the commencement of a college athlete's career, and there are plausibly many realms of collegiate sports which would benefit from closer examination.

Hopefully, today's hearing will foster a continued dialogue between the NCAA and university administrative officials resulting in meaningful improvements to college recruiting and other NCAA policies.

I thank the Chairman again and yield back the remainder of my time.

PREPARED STATEMENT OF HON. JOE BARTON, CHAIRMAN, COMMITTEE ON ENERGY
AND COMMERCE

I commend Chairman Stearns for holding this hearing. The Committee has had a long history of oversight of intercollegiate athletics and the National Collegiate Athletic Association. Given the allegations of misconduct in the recruiting of high school athletes, this hearing is both timely and important.

The NCAA will begin its national championships in basketball for men and women in one week. This should be a time to celebrate the student athletes and their universities as models of higher education and fair competition.

But the recent history of scandals and serious allegations of both improper and criminal conduct has tarnished the meaning and significance of collegiate sports and the universities that sponsor them. Whether these allegations are isolated or, as many suspect, more widespread, is almost irrelevant. It may not be fair, but the actions of a few have raised doubts about the integrity of collegiate athletics.

We simply cannot turn our heads to the recruiting allegations that have surfaced. The fact is today we have multiple cable networks, radio networks, websites and other media outlets that have been built around the sports industry because we will watch, listen or read about it. Collegiate athletics plays a significant part of this industry, particularly men's basketball and football. The pressure to win at any cost under these monetary circumstances has predictable outcomes of skirting the rules.

If we really care about the student athletes and the future of collegiate sports, changes should occur. Higher education institutions and the NCAA will need to de-

cide what role their athletic programs are designed to accomplish and stop the pre-tending.

I look forward to the testimony today, Mr. Chairman, to determine what role, if any, Congress can play in ensuring the integrity of collegiate athletics.

PREPARED STATEMENT OF HON. GENE GREEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Thank you, Chairman Stearns and Ranking Member Schakowsky for holding this timely hearing on recruiting practices and violations occurring on our nation's college campuses.

With the recent events at the University of Colorado, and with numerous other recruiting violations taking place over the past several years, this is a growing issue that must be addressed in order to protect both the integrity of college athletics and the students who get caught up in these activities.

It is paramount that the National Collegiate Athletic Association, along with the administration and athletic departments of our nation's colleges and universities, put a stop to the types of recruiting violations that have flooded our news.

Athletic scholarships provide financial assistance to individuals who may not otherwise have the opportunity to obtain a higher education.

Yet in some instances these institutions, or individuals at these institutions, are using student athletes to advance their own interests at the expense of the student.

Underage drinking, sexual misconduct, and bribery have no place in our society, let alone our college campuses.

However these practices have been used, and more than likely still are being used in some cases, to draw 17 and 18 year old athletes to a specific sports program.

The education and well-being of student athletes should not come second to the success of a college's sports program.

While I understand the NCAA and college administrations are cracking down on these types of incidents, my initial reaction when I witness situations such as the one at Colorado is that they clearly are not doing enough.

Whether it be stricter oversight by a college's administration over the athletic department, or stricter penalties imposed by the NCAA for recruiting violations, we need to move beyond the current practices to protect student athletes.

It is my hope that the NCAA will make this a top priority and that colleges will work to prevent recruiting abuses rather than respond to them.

Again, thank you to our Chairman and Ranking member for holding this hearing and for your leadership on this important issue.

I yield back the balance of my time.

Mr. STEARNS. With that, Mr. Osborne, we welcome you and appreciate your taking your time, and so we would like to hear your opening statement.

STATEMENT OF HON. TOM OSBORNE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEBRASKA

Mr. OSBORNE. Thank you, Mr. Chairman, and appreciate your inviting me here today. We like the Gators. The Hurricanes and Seminoles were more problematic to us than the Gators, but any way I know where you are coming from.

So, and to be frank with you, I wasn't real excited to be here today. But I thought maybe I could discuss a little bit the recruiting situation as I see it. And I am certainly not here to pass judgment on any institution, because I—one thing I do know, that it is impossible to judge from a distance.

And we have had a lot of that going on, not this committee but just throughout the country. And so unless you are there, unless you are immersed in it, you really don't know what is happening.

So, anyway, I would like to give a little perspective from 36 years of recruiting, being in the middle of the country and a sparsely populated state, we were in probably 47, 48 states recruiting. And we recruited against probably all 115, 116 Division I schools at one

time or another. So I don't know all about recruiting, but I have some idea.

Let me just say this. The recruiting process has improved dramatically since the 1960's, and I am just going to run through a few things that have changed. First of all, the number of recruiting visits that an athlete could take is now five. At one time it was unlimited. We recruited some guys that had been on 14, 15, 16 recruiting visits, every weekend from October to May. And you can imagine the amount of time that this took.

Second, no contacts—or the number of contacts from coaches are limited to one a week. I knew of a school back in the 1970's who had a guy rent an apartment in a town where there was a great player. And this guy was there 5 days a week, and he saw that player two or three times a day, and the Booster Club gave him an award as the best booster at the end of the season for that high school.

Now, they got the player, but that just simply doesn't happen any more. You see them once a week, and the recruiting season is now roughly six to 8 weeks. It used to go on 6 to 8 months. You are allowed one phone call a week after the first of September. And, again, that went on, sometimes multiple phone calls.

The first thing that you look at in a student athlete is their academic requirements, and that has changed dramatically. You have to have 13 core courses. Now, these are not P.E. or—this is core academic courses. You have to have a 2.5 average. You have to have a certain SAT/ACT score. And you have to also maintain normal progress toward graduation.

So in many cases a student athlete has a more difficult academic road to hoe than a non-athlete. A non-athlete does not have to pass 12 hours a semester or pass 24 hours within two semesters. And they can take a break and work. They can take a light load. An athlete doesn't have that opportunity.

Athletes are highly regulated. Graduation rates are published. You are drug tested 4, 5, 6 times a year, maybe 4 or 5 times by the school, once by the NCAA, once by the conference. This is random testing. You never know when it is going to be.

And if you take Andro hormones, or any of the drugs that we have seen some of these Major League Baseball players take, you are sanctioned immediately. You are out. So they don't mess around with you. There is a great deal of media scrutiny, as we have mentioned.

As far as the recruiting visit, it is 48 hours in length. The host is given \$30 per day. Now, I want you to get that—understand that. The host—the person who shows the athlete around is limited to \$30. Now, if you are going to take a guy to a movie and take him out to eat, there isn't a whole lot of money left to hire strippers or other types of activity. So you can follow the money.

And if somebody is violating on the amount of money they are giving the host, then these things can happen. But it is easy to document the amount of money that they get and where it goes.

Each school is allowed no more than 56 recruits to come in on official visits. The reason this is important is that they are not going to assign more than 20, 21, 22 on the average, so you have got about 35, 36 young men who visit a campus who don't come to

that campus. So if you want to know what happened on the recruiting weekends, those are the guys you go see. Those are the guys that David Berst and other people are going to talk to, the ones who don't come to the school.

And if you find a consistent pattern of those who visited that school over 3 or 4 years, 30, 40, 50, 60 percent, did certain types of activities, then you can pretty well be certain that this was a pattern of behavior that was at least condoned. But you will find some isolated instances where somebody didn't behave very well, because you are dealing with fairly large numbers of people. So, anyway, I think that is important.

Entertainment must take place within 30 miles of the campus. And the big key in recruiting is not how you ranked in the recruiting polls. At the end of the year, everybody rates your class—first, second, third, fourth. The key to recruiting is, how many of those guys are there 2 years later? And how many of them are satisfied with their experience? And how many of them are playing and are productive and are academically eligible? That is when you know how your recruiting went is 2 years later.

So you don't want to go out and recruit guys that aren't going to be with you. You don't want to go out and recruit guys who are going to flunk out. You don't want to go out and recruit guys who are only interested in parties, you know? Those are not the kind of people that are going to get the job done for you, at least that is my experience.

The NCAA does enforce rules. You know, I have heard some statements here that the NCAA is turning their head. The NCAA absolutely does not turn their head. Every college coach that I know of is very concerned about the NCAA. If they come in and investigate you, they are going to be there for 6 to 8 months.

They are going to have 2 to 3 guys on your campus, and it is like an IRS audit. They are going to go through everything you have got, and the report will be 1,000, 2,000, 2,500 pages, and most of that will deal with recruiting issues. They are looking for a competitive advantage.

And so people take these things very seriously, and almost every school has a compliance coordinator that is—the only job that person has is to keep track of the rules, and to make sure every coach knows what the rules are, and hopefully that the coach is obeying those rules. And so that is a pretty—I mean, that is \$30-, \$40-, \$50,000 that you are spending just for compliance.

The rulebook is that thick. An awful lot of it has to do with recruiting issues. The purpose of the visit is so the recruit can evaluate the school, but also it is so the school can evaluate the player. We would occasionally send a guy home early. We would occasionally have the host say, "You don't want this guy, Coach. You know, this is not a guy that is going to fit in here." And so it is a two-way street; you are looking at them, they are looking at you.

And the most important thing is to let them know what they are in for, because being a college athlete is not a piece of cake. And so what you do is you—I think most schools do this. They have a very structured visit. If you are in practice working out for a Bowl game, or whatever, they go watch practice and they see how hard it is.

They meet with a faculty member in their major field of interest. Almost every school is going to do that. You are going to meet with the academic counselors. You will probably have a tentative schedule made out before you even leave the campus. You will meet with the head coach, the position coach, the trainer, the team doctor, the strength coach, the nutritionist.

You will have a meal at the training table with the equipment manager, tour the athletic facilities, tour the school, tour the community, and then the important part of the visit—and I think this is something that I would like to emphasize with you—is you will spend time with the student host.

And that is probably the key thing, because if that guy who shows you around says, “You know, I am really sorry I came here,” you can have everything else on that weekend go perfectly, and it is all over. That guy is not going to come to your school. If the student host says, “You know, this is a good school. You know, these guys treat you right. This is a good place to be,” you have got a pretty good chance.

But almost every player that goes to visit a school is going to want to spend a little bit of time with the student host with a coach not present, because there are things they want to find out that that student host wouldn't say in front of the head coach or an assistant coach.

And so what we did is we told the players—and I think most coaches would tell them this—is, “You stay away from alcohol. Stay away from—if any drugs shows up, get out of there. Go to a movie, have dinner, turn in fairly early, because we are going to get you up at 7 the next morning, and you are going to have all of these appointments.” Now, maybe that doesn't happen at every school, but most of them that I know of do. We encouraged the parents to come wherever we could. We felt our odds went up 50 percent if we got the parents there, because what an 18 year-old is looking for isn't what the parents are looking at. And I think most schools, again, want the parents there. And you are not going to get up in the morning if you went to—and tell your mom, well, you went to a strip club the night before. You might not tell her anyway.

But, anyway, I think it is important to understand that we do try to—and I think every school tries to involve parents. And then let me just say this. From my perspective, there is no competitive advantage to having a young man go out and get drunk, or be involved in some type of a promiscuous situation, be involved in a situation where there are drugs, because that young guy is going to go home and he is going to talk to his teammates. And he is going to talk to his coach. He may talk to his parents; he may not.

But the kiss of death is to have a young guy come home from a recruiting visit and say that he was engaged in all kinds of illegal behavior. Now, this may happen on some campuses. I am not saying it never happens.

But what I am telling you is, by and large, if you talk to 100 coaches out of Division I-A, I will bet you 98, 99 of them would tell you the last thing they want to have happen on that recruiting visit is something of that nature, because you are not going to normally get that guy if the parents or the high school coach or anybody finds out about it.

Some people think that, well, if you furnish them with some type of illicit sexual activity or drugs or alcohol, they are more apt to come. I don't think so. You know? You may get a few guys like that, but you don't want those guys. You know, those are not the people you want to get. And, furthermore, in most cases it will finish you off. And so it is not something that you are out to do.

Let me just say a couple other things, and then I will desist here. I think it will be relatively easy to determine if there has been a consistent pattern of abuses. I really believe you can find this out. It may take a little time, but what you do is you go interview the guys who visited the campus who didn't come there.

And so in the last 4 or 5 years most schools have had maybe 100, 150 guys who visited in the football program, maybe 70 or 80 in the basketball program, who did not come. So you go interview them, and say, "When you went to School X, what did you do, you know? What kind of things went on there?"

And if they are in no way tied to that school, most of them are going to tell you what went on. And then again, follow the money. You know, what happened to the dollars—the recruiting dollars that that student host had? How much money did he get? Did he get an illegal amount? And how did he spend it? He has got to turn in receipts. So where did he go? What did he do? And those are the ways I think that you can track it down fairly easily.

And NCAA is a voluntary organization, and I think it is very important that Congress not try to get involved in NCAA legislation, because this is an organization where schools consent to belong, and for us to make rules it would be very difficult. It would be like having the Washington Redskins come in here and write tax policy. I mean, you just don't understand it. You know, you have to be there to know what to do.

And there are so many rules now that there are hardly any more rules that could be written. There are going to be—there is going to be a certain percentage of people that are going to cheat on their taxes. There is going to be a certain percentage of people who are going to cheat in recruiting, and that is just going to happen. That is the way it is.

There is going to be 10 percent or 5 percent of the people in Congress who are not ethical. There is going to be 5 or 10 percent in the clergy. There is going to be 5 or 10 percent in the business community. And you are always going to have that. And if you are in a high profile position like Congress or athletics, those people who are deviant or don't do the right thing are going to get a lot of publicity. And it is going to paint the whole deal.

But—and, again, I am not alibiing for intercollegiate athletics. I am just trying to tell you what I think is out there.

Let me also mention one other thing. In 1985, sudden death penalty was administered to SMU. And we ran into some deals prior to that where we were competing with teams that we knew were paying players. We knew they were cheating, and we just figured we had to beat them anyway. But after 1985, when sudden—when SMU got shut down for 2 years, I saw a tremendous shift. I didn't see the cars and the clothes and the cash anymore.

Once in a while we would see somebody that would promise or recruit something that couldn't be delivered, like you are going to

be our starting quarterback. But that is not a violation of NCAA rules.

But I saw a tremendous change, and I can't tell you after 1985 that I really saw any one player that was bought out from under us, you know. Before that time I could say quite a bit. Now, I am not saying there is no cheating, but I think it has changed quite a bit.

And then I think, last, I would like to say this. I think it is really important to consider the environment in which our young people are having to operate today. The high school campus, the college campus, compared to when most of you on the panel went to college, there is a whole lot of things out there. In 1962, I had never heard of crack, never heard of meth, never heard of ecstasy.

There was a little bit of promiscuity, but not like you see today. There was an alcohol culture, but not like you see today. So athletes are part of the student body when they are there. And so I think you need to look at the whole culture, and not just isolate the athletic department.

So, Mr. Chairman, that concludes my remarks. And hopefully I have not been out of bounds here. I have just tried to tell you how I see it. Thank you.

Mr. STEARNS. I thank my colleague very much for his appraisal. Generally, we—I say to the members on the panel here, we don't really go into questions to fellow members like this. We have another panel that is waiting, so I think—he is as busy as all of us, so we are going to let him go.

Mr. Osborne, thank you very much for your time.

Mr. OSBORNE. Thank you, Mr. Chairman.

Mr. STEARNS. With that, we will have the panel—the second panel come up. David Berst, Vice President of Division I, the National Collegiate Athletic Association, please come to the desk. Dr. Elizabeth Hoffman, President of the University of Colorado System; Mr. David Williams, II, Vice Chancellor for Student Life and University Affairs, General Counsel, Professor of Law, Vanderbilt University; and Mr. Don McPherson, Executive Director, Sports Leadership Institute, Adelphi University.

And let me thank all of you for your time. And you are here volunteering, so you are to be commended and thanked, and we know how busy you are. You are just as busy as all of us, and so, again, we thank you for your time.

I think what we will do is just—if you don't mind, just start from my left and go to my right. And, Mr. McPherson, if you are ready, we will let you start with your opening statement. We are going to have to have you put on the mike. I think there is—if it is—or bring it closer to you.

STATEMENTS OF DONALD G. McPHERSON, EXECUTIVE DIRECTOR, SPORTS LEADERSHIP INSTITUTE; DAVID WILLIAMS, II, VICE CHANCELLOR FOR STUDENT LIFE AND UNIVERSITY AFFAIRS, GENERAL COUNSEL, PROFESSOR OF LAW, VANDERBILT UNIVERSITY; ELIZABETH "BETSY" HOFFMAN, PRESIDENT, UNIVERSITY OF COLORADO SYSTEM; AND S. DAVID BERST, VICE PRESIDENT OF DIVISION I, NCAA

Mr. McPHERSON. All right.

Mr. STEARNS. Yes, just bring it a little closer.

Mr. MCPHERSON. Is it working now?

Mr. STEARNS. Now I think we can hear you good.

Mr. MCPHERSON. I am coachable.

Mr. STEARNS. Coachable. Teachable.

Mr. MCPHERSON. Thank you.

Thank you, Mr. Chairman, and Representative Schakowsky and members of the committee, for taking the time to address this extremely important issue—one that I have, as an individual, benefited from throughout my life as a football player, a high school football player in New York, and a college football player at Syracuse University.

I sit before you today not because I was a great student or an intelligent person, but because I was a football player. My life as an advocate trying to prevent violence against women, my life as an advocate working with young people on very serious issues, came about because I was a football player. I was asked as a student athlete at Syracuse University to work with young people on very, very important issues.

And I learned from very early on that we have a distorted sense of the importance of athletics in our culture, to the point where we are blinded by the people that we very often hold up as role models, as heroes, and not holding them accountable for the individuals that they are.

I teach a class at Adelphi University called Sport and Civilian, and ask my students at the very beginning of the semester if they believe that sports are good for kids, and there is an automatic response of yes. And just like many members here today and my fellow panel members will tell you that sports has been a wonderful and tremendous asset in their lives and at their institutions.

And I believe, as someone who has been around athletics for all of my life, I am 38 years old, I have been playing football since I was 8 years old, that sports has become a cancer in our culture. We have this blind understanding that sports develops character, it teaches teamwork and sportsmanship and all of these positive things that we just assume it teaches. And if we don't proactively teach the things that we are asking young people to learn, it will teach them the negative things.

We are obviously here today not because of the recruiting that is going on in intercollegiate athletics. Most student athletes on college campuses are amazing, amazing young people. The overwhelming majority of student athletes on college campuses are amazing young people who are taking on a tremendous amount in their sports, as well as academically.

We are not here to talk about those student athletes. We are here to talk about the 22 that you mentioned. We are here to talk about Division I-A football and basketball. That is where the problem has always reared its head. And I think that is the issue that needs to be addressed.

Intercollegiate athletics, higher education, and athletics, in its current form in this country is out of control. Eight billion dollars, a billion dollar contract, for the NCAA tournament March Madness that is about to begin, and it is truly madness. Of these student athletes that are playing on Monday night during—in the middle

of the semester, we are asking these young people to generate billions of dollars in the name of nonprofit institutions.

They know that before they come to campus. They know that long before they come to campus, that they are the stars in the show. And when I ask my students about whether or not they think sports are good for kids, and we talk about young people from a very early age, a lot of the behaviors that the NCAA and the institutions of higher education have been trying to address in terms of athletics are really in many cases issues that they cannot impact.

Initial eligibility standards were created to ensure that student athletes were capable of doing college work. The reality is that it is our secondary and primary educational institutions that have to ensure that young people come with the necessary skills to matriculate in higher education.

The same thing is true with off-the-field behavior. The one workshop that I do many times with college athletes and high school students and union workers. And I am here this week not only for this hearing but also with Lifetime Television to talk about violence against women. As I talk about violence against women and violence in general, it is learned behavior.

When I ask students what we learn from sports, and I ask young men the worst insult they ever heard as young boys, "You throw like a girl." What message do we learn from a very early age? That boys are supposed to be tough. Where do we—who do we value? Why am I here today? Because I represent iconic masculinity. I am a football player. There are people who I have learned from who don't get the platform I get to say the things I do, because I was a football player.

We value the tough, strong—we don't expect our student athletes on our college campuses to be nice guys. We want them to kick the crap out of the other team. We encourage them to do so. They grow up in a culture that trains them to be that. And the statement, "You throw like a girl" not only says that as a man you had better be all these things, but it also says implicit in that statement that girls are less than.

And the student athletes who come to our campus after years and years and years of being rewarded for being those iconic masculine figures also learn in that process the role of women—cheerleaders baking cupcakes for student high school football players, the recruiting process.

And the recruiting process, I don't think that anyone who has been around athletics at the Division I-A football and basketball level—and as someone mentioned earlier, on our college campuses, the amount of sexual behavior that is going on on our college campuses, in our high schools.

It is all too clear how often we are seeing these problems. And I apologize if my comments seem somewhat scattered, but this is a huge, huge issue, and there are no easy answers to a very complex problem.

Mr. STEARNS. I will ask you to sum up, if you would.

Mr. MCPHERSON. I will.

Mr. STEARNS. We are just trying to keep each one to 5 minutes.

Mr. MCPHERSON. I think it is very important that when we talk about the laws of the land versus the laws that govern intercollegiate athletics or recruiting that the laws of the land take precedent. And that we recognize that when student athletes or students commit crimes against women, commit crimes against others on campus, that they be dealt with as crimes as such, and that we recognize that intercollegiate athletics and programs on college campuses cannot continue to operate in isolation from the rest of campus.

And I will close with one last point. Mr. Chairman, please indulge me with this one last point, that the NBA and the NFL both have rookie transition programs that they institute because they recognize that student athletes go through 4 or 5 years on a college campus and don't come with the adequate skills to be professional athletes. And so they put their players, their rookies, through programs to help them with all of the different responsibilities that they are going to have to be a professional athlete. Colleges are failing these young men, and those are the ones who make it.

[The prepared statement of Donald G. McPherson follows:]

PREPARED STATEMENT OF DONALD G. MCPHERSON, EXECUTIVE DIRECTOR, SPORTS LEADERSHIP INSTITUTE, ADELPHI UNIVERSITY

INTRODUCTION

I applaud the Committee on Energy and Commerce for examining the issues facing college athletics. My testimony before the committee on "College Recruiting: Are Student Athletes Being Protected?" reflect more than 20 years of experience in this area. I have come to learn that the dynamics of college athletics, good and bad, are increasingly more complex and advanced than when I was recruited by Syracuse University in 1982. While the recruiting practices at the University of Colorado-Boulder have come under tremendous scrutiny, and have led to such hearings as this, I must caution the committee not to confine its investigation to recruiting practices or guidelines. The process of recruiting student athletes and the problems that have brought us here today, are byproducts of the larger issues facing higher education and its athletic entities. Further, while the welfare of student athletes should always be taken into consideration, our institutions, student populations and communities must also be recognized as primary stakeholders in any discussion of athletics in the educational setting. Failure to account for all stakeholders and perspectives will result in a squandered opportunity to positively impact one of the great traditions of American Culture; intercollegiate athletics.

COLLEGE ATHLETICS

College athletics does not exist in a vacuum. Furthermore, many factors contribute to the process of recruiting prospective student athletes. Least among these factors is the academic reputation or integrity of a given institution. It must be noted that the overwhelming majority of student athletes who attend college have specific academic or (non-sport) professional goals. However, such student athletes are not at the center of recruiting scandals or other criminal and behavioral transgressions. The student athletes and athletic programs that have brought us to this hearing represent a very small and unique portion of college athletics, also with the greatest influence. Division I-A basketball and football programs operate by a different set of unwritten rules and under dramatically different pressures and scrutiny than all other sports. Also, on many campuses these programs often function in relative isolation from the larger campus community. For the purposes of this hearing, my comments will be directed towards, but not limited to, those institutions that participate at the Division I-A level in basketball and football.

The title of this hearing implies that it is college student athletes that are being hurt by the recent allegations of recruiting improprieties, particularly at the University of Colorado-Boulder. While I do believe that the student athletes involved will bear the scars of this case, it is because several women have broken their silence about sexual assaults that has forced this discussion. So the question must be asked, who is less protected in the search for the next All-American, the student

athlete, or those whom they encounter during their time as recruits and subsequent years on campus?

PROTECTING STUDENT ATHLETES

But first, allow me to address the question of “protection of the student athlete.” The charge of exploitation of the student athlete has become increasingly difficult to defend for the National Collegiate Athletic Association (NCAA) and its I-A member institutions. A multi-billion dollar television contract for the men’s basketball tournament and the Bowl Championship Series (BCS) in football are gross illustrations of how college athletics, at this level, are no longer the altruistic endeavor of not-for-profit institutions of higher learning. Nevertheless, higher education insists the system is fair, and student athletes are being fairly treated in this equation. I don’t intend to address the issue of compensation, rather, the means by which the NCAA has sought to ensure fairness.

Initial Eligibility Standards were created in response to dismal graduation rates of student athletes, a major concern of those who felt the system was not fair to student athletes. Minimum standards are now required for first year student athletes to be eligible to participate in their sport. The problem with this process is that college athletic programs can do nothing to ensure that our public educational systems (grades K-12) are adequately preparing students for college work. This has resulted in enormous resources being directed towards helping student athletes “catch up.” Despite the efforts of institutions to support student athletes, graduation rates continue to be a major problem.

On and off the field of play, fundamental skills are the building blocks for success. Without adequate skills in the classroom, student athletes will cheat, fail, or worse, never attempt to succeed.

ATHLETES ON CAMPUS

When high school, and younger, students are identified as being particularly skilled in a sport, their lives become a commodity as the potential for a professional sports contract is recognized. For many of these young men, higher education is not in their plans and college sports (basketball or football) are mere “stepping stones” to the next level of play where they can reap the financial benefits of their skills.

As I travel around the country and work with college student athletes, it’s very obvious that many young men have come to college, with little interest in being in college. In other words, they don’t recognize their place in the academic and social environment of the entire campus community. This places the individual student athlete and the campus community at risk.

Exacerbating this dynamic is the tremendous attention and resources afforded the individual athlete and sport. As basketball and football players are cheered by thousands and treated like thoroughbreds, it should be no wonder that they exhibit a sense of entitlement. Expecting them to ignore the dynamics around them is simply unreasonable. It’s also important to note, that student athletes at the center of a billion dollar (entertainment) industry are well aware of their role as “stars” in the show.

ALCOHOL AND SEX

College life is full of new responsibilities and freedoms that are often difficult for all students to manage. Fundamental skills are necessary for success in this area as well. We must address the attitudes and intentions of prospective student athletes before they come to campus to ensure they have the requisite skills to manage their new environment. Primary among the behaviors to be managed are those that involve alcohol and sex. For many young people, the “prevention” message has been “don’t do it” or the subject is simply not addressed. The messages that young men receive about college sports, alcohol and sex are that they are all part of the party. Beer advertisements (around sporting events) that objectify women are staple symbols of the experience. These messages, however, are not received during the recruiting process of prospective student athletes. As early as boys aspire to be athletes, they are taking in the messages of the culture. When it comes to sexual behavior in particular, many young people (primarily boys) are getting their messages from dangerous and irresponsible sources, such as pornography. The lack of adequate and accurate information has led many young people to make bad decision, based on the bad information.

RECOMMENDATIONS

The National Basketball Association and the National Football League both use a "Rookie Transition Program" to help incoming players understand their roles in the business, manage their new freedom and wealth and make them aware of the pitfalls that can derail and career, or life. This is done with the recognition that many of them did not learn these lessons in college and that the professional leagues are a very different place. Without question, each league created their program to protect their investments, their players. The NCAA and its member institutions should institute a similar program, designed to help high school student athletes transition to the pressure, scrutiny and responsibilities of being a division I-A student athlete.

In addition, college athletic programs that function in isolation from the larger campus community must begin to collaborate with those campus entities that also contribute to student life (e.g., housing, student activities, etc.). Cooperation will improve communication and provide student athletes with a better understanding of their responsibilities as members of the campus community. This should begin during the recruiting process and be maintained through graduation.

CONCLUSION

The problem of sexual violence and inappropriate sexual behavior that has sparked this discussion is not unique to college athletics or the recruiting process. There are ongoing efforts on most college campuses to address the problem of violence against women. By becoming more cooperative and proactive athletics programs can have a tremendous impact on the efforts to protect all students, including student athletes.

Just as initial eligibility standards have not had an impact on secondary education, simply addressing recruiting or any one aspect of college sport, will not address the complexities of the problems facing our student athletes or the schools and communities that send them to our campuses.

College campuses are designed to be free, respectful and welcoming environments. Educating student athletes about their place in this environment should be a primary goal of the recruiting process. Furthermore, college athletic programs need to work more closely with the larger campus community to ensuring the protection and well being of all students.

BACKGROUND AND EXPERTISE

In 1982 I was a two-sport high school All-America athlete. To varying degrees and with few exceptions I was recruited by every major college football program in the country. I accepted a scholarship to Syracuse University where I studied psychology. As quarterback of the football team, I compiled 22 school records and led the team to an undefeated season in 1987. In the process, I was a consensus first team All America selection and won more than 18 national awards as the nation's best all around player and quarterback. After Syracuse, I spent seven years in professional football in the National Football League (three years) and the Canadian Football League (four years).

During my entire seven-year career, I worked with community outreach programs in each city. Each off season, I worked with a community based organization called Athletes Helping Athletes, Inc. in New York. Upon retiring from football in 1994, I accepted a position at Northeastern University's Center for the Study of Sport in Society as co-director of *Athletes in Service to America*, an AmeriCorps program. "*Athletes in Service*" continues to operate on five college campuses and adjacent communities. In 1996, I was named director of the Mentors in Violence Prevention Program (MVP), a position I held for three years. MVP is a gender violence prevention program designed to reach college male student athletes and fraternity members.

Currently, I'm founder and executive director of the Sports Leadership Institute at Adelphi University (Garden City, NY). In addition, I continue to work in the field of sexual and domestic violence prevention as an advocate, educator and public speaker. Since 1999, I have presented on more than 100 college campuses nationwide. I have worked closely with the Justice Department's Office on Violence Against Women, the Centers for Disease Control, the Family Violence Prevention Fund, Lifetime Television and many other national and local violence prevention organizations. I have appeared on MTV and the Oprah Winfrey show to discuss issues of violence against women.

For the past five years, I have worked as an announcer for college football games on three different networks, ESPN, BET and NBC, and created the John Mackey Award presented to college football's best tight end.

Mr. STEARNS. I thank the gentleman.
Mr. Williams, welcome.

STATEMENT OF DAVID WILLIAMS II

Mr. WILLIAMS. Thank you. Thank you, Mr. Chairman, and members of this subcommittee. And thank you for having this hearing and inviting me.

I just flew in last night from Atlanta where the southeastern conference is having its tournament, and I just had a meeting. I am in the position now at Vanderbilt where I serve, not as in name but as in practice, as the Athletic Director. And so I have just left a meeting of the athletic directors and other members of the SCC.

And as I flew up here, I thought about the fact that it is almost 40 years ago that I left Detroit to go to college as a student athlete. And I thought seriously about the fact that in all of this time what has changed and what has not changed. And it is remarkable of what has not changed.

Throughout that career, I have been a student athlete. I have been a high school and a middle school teacher and coach. I have been a professor, both at the law school and at the undergrad level. And I would submit to you just even now where we have two of our basketball teams at Vanderbilt hopefully headed to the NCAA tournament, I have some of those students in my class.

And while they work very, very hard and are good students, I think we have set up a system that just really—I am in wonderment about the fact that we bring in kids that at some time we call at risk, and we then set up a system with those kids that are ones that have to, not choose to, but have to miss the most classes.

I am the General Counsel at Vanderbilt. I have negotiated sports contracts and sports coaches contracts. I have defended our university in Title IX. And now, in full circle, I am now running an athletic department at a Division I institution.

We look at all of the allegations at universities around this country. We look at what happened recently at Baylor, at Providence, other universities. And in my own SCC we have presently three universities that are on some sort of probation alone for recruiting violations.

If you look on the NCAA website alone, and you look at major infraction violations since 1999, you will see 62. At least 42 of those 62 have recruiting or extra benefits just in the title, without even going to the substance.

So there is an issue, and there is a problem. And I want to say that I think there is really five issues that need to be looked at in this. The first is the rules. I think the NCAA does a very, very good job as far as it can go.

I would say one thing is if you look at the manual, and as a lawyer, you know, I always wonder where rules come from and how rules are supposed to be implemented and developed. And I would say that one of the problems with the NCAA rules is many of the rules are specifically to remedy a situation that happened. And, really, when you look even at recruiting and all of the pages that deal with recruiting, there really is no statement of value, no best practice, no philosophy of what we are trying to do.

And as much as I commend Miles Brand and David for what is happening in the task force, and I think it will be good, I would submit to you if we are trying to get something out of that task force within the next month or month and a half, it has to—it is going to be specific to something that just happened.

And that is one of the problems with the rules. Those rules need to be revised, need to be reviewed, and we need to come up with best practices in recruiting and other things, and some philosophy about what we are trying to do and where we are trying to go at.

Second, competitive advantage. One of the things that I have learned now that I have responsibility for athletics under our new structure at Vanderbilt is every time I talk to a coach that is the first word that comes up. We will be—we need to be at a competitive advantage, or if I don't do that they will be at a competitive advantage. That whole concept of competitive advantage is what is pushing everything—what is pushing everything.

If one university can fly a kid on a private jet, then your coach wants to do it. If one university is taking chartered flights to all of their games, then my coach wants to do it. And we have got to get to a point that the money, the resources, or the chance or the ability to try to play outside of the rules, because if I get caught—if I get caught—the penalty won't be that tough, puts people at a competitive advantage.

The NCAA talks about a level playing field. We have to level the playing field, take some of that out of it.

Third, education. And this one really goes to recruiting to me. I have seen too many official visits where I keep asking the question in the old vernacular of where is the beef—where is the education? You know, how much time in this 48 hours is really talked about being a student? And I hate to submit to you that in many cases the young people that come to some of these campuses will spend more time at a downtown club than they will dealing with educational aspects on the campus.

You know, they are students, and I would like to say that if we are not going to bring kids to universities for student purposes, we shouldn't be bringing them for athletics.

Fourth, institutional control and responsibility. And I would say to you that is one of the biggest ones, especially in recruiting, especially in athletics for that matter. The NCAA rules are only going to be as good as the institutional control on the campuses and at the conferences.

Now, one of the reasons why Gordon Gee, our chancellor, changed the athletics and the structure at our campus, which is only good—we only did it for our campus, we didn't do it for anybody else—is because we basically saw that athletics, as an entity, was drifting away from the mainstream of the university, was not integrated in the mainstream in the university.

There is a chancellor and six vice chancellors who basically run Vanderbilt University. Athletic things that were being done many times they didn't know about them. They might not have cared about them, I am not sure, but we have changed, and now nothing in athletics—nothing in athletics—will happen without institutional control on our institution.

It has just gotten out of hand. Most presidents and most administrators, central administrators, really don't know what is happening over in athletics. I had one athletic director tell me the other day, which I was just appalled—we were talking about the use of general counsel office, and they said, “Yes, we have general counsel. We have in-house lawyers at our university. But athletics doesn't use them. Athletics doesn't use them. They have their own.” And I would say also in the institutional control central administrations have to know what is going on in their recruiting. What are the policies? Are there written policies for these student hosts?

I would also add that I think it is deplorable in the fact—and we at Vanderbilt have done it, and I plan to stop it—that we use these young women as what we call at Vanderbilt Gold Stars. I have never understood why we have women hosts for our two men's teams.

Mr. STEARNS. I need you to sum up, Mr. Williams.

Mr. WILLIAMS. And, finally, the student athletes. I would suggest that we need to start listening to them. I have talked to a lot of student athletes, both at Vanderbilt, former student athletes, and other schools, and tried to find out, is all of this that we are doing in recruiting really germane to what their needs are and what their wants are?

They tell me most of these things we do are just fluff and really don't help make a decision.

Thank you.

[The prepared statement of David Williams II follows:]

PREPARED STATEMENT OF TESTIMONY OF DAVID WILLIAMS, II, VICE CHANCELLOR FOR STUDENT LIFE AND UNIVERSITY AFFAIRS, VANDERBILT UNIVERSITY

The Recruiting process involves a balancing of the interests of prospective student athletes, their educational institutions and the Association's member institutions. Recruiting regulations shall be designed to promote equity among member institutions in their recruiting of prospects and to shield them from undue pressures that may interfere with the scholastic or athletic interests of the prospects or their educational institution.

The above statement that appears in Section 2.11 of the NCAA Constitution establishes “The Principle Governing Recruiting” for intercollegiate athletics in Division I of the NCAA. It speaks of equity among member institutions, shielding prospects from undue pressure and avoiding interference with scholastic or athletic interest of the prospects and their educational institution. The question is—“Is that what college athletic recruiting is really about and does it hold true to this governing principle?”

In recent months the general public has become aware of allegations of recruiting violations at major universities in this country. The alleged use of sex, the alleged promise of future admittance and payment to professional schools, the alleged academic arrangements resulting in extra benefits, just may be small exceptions to an otherwise solid system of integrity and control within college recruiting. Or, on the other hand, it just may be a small section of a larger problem that exists within this acknowledged big business that is conducted by our colleges and universities.

Make no mistake of it; I am a true supporter of college athletics. I have been and remain both a fan and an advocate of college athletics at all divisions, including Division I. It is because of my support and belief in what athletics can do for a university, a community, a country and an individual that I worry about the place we find ourselves today in college athletics, and the problems that we see and don't see in college athletic recruiting. By looking at the NCAA website and reviewing Major Infraction cases from February 1999 until today, we find that forty-two of the sixty-two cases cited had some sort of recruiting or extra benefits violations. In teaching sports law courses over the past fifteen years, over eighty percent of the law students that I surveyed believe that widespread recruiting violations occur in major college athletic programs. And of course, we all hear the stories at cocktail parties, at the sports bar, at the water cooler at work, and when we are just hanging out

with our friends about the recruiting sidesteps that the other team (not our university) did to gain that all important student athlete.

Well, I submit to you today that while many colleges have clean recruiting programs and would never ever think of, or allow something illegal (by NCAA standards) or unethical to take place, there are others that either condone questionable behavior, look the other way so as not to see the questionable behavior, or have athletic programs so separate that they truly do not know that the questionable behavior is going on right under their noses. And even if it is only a small number of colleges, which I sincerely doubt, doesn't that violate the first part of the governing principle of equity among the member institutions? If University A is following the rules and recruiting legally and ethically while University B is doing it just the other way, does this not give University B a leg-up in the process? For an endeavor like athletics and sports where competition on the field, the court, the mat, the rink, the diamond or in the pool, centers on fair play and obeying the rules, isn't it a shame that some of us use such poor judgment to gain access to the young student athletes that must play these games? What a negative and contradictory message we must send to them by our actions.

While some will point the blame at money and state that money and the need to win causes this recruiting problem, I am not convinced that these alone are the problems. Yes, there is a huge amount of money in college athletics, and of course we all love to win, and the coaches feel that pressure and realize that great athletes make great teams and great teams make successful seasons. So, in order to get those great athletes they must be recruited and the saga begins. However, I believe there are five other reasons why we find ourselves where we are today. Those are NCAA Rules; the concept of competitive advantage; the need to reestablish the importance of education; institutional control and responsibility; and the welfare of the student athlete. I will discuss each in my testimony.

NCAA RULES

The NCAA Manual, which is over 470 pages, has forty pages devoted directly to recruiting, and another one hundred and ten indirectly touching recruiting under the topics of eligibility, financial aid and awards and benefits. If you add on the sections on institutional control, ethical conduct and amateurism there is a great deal of rules and statements that either directly or indirectly touch recruiting. However nowhere in the rules is there a general philosophy of what recruiting is about and what should be its major framework. Short of the governing principle which appears above, there is no direction given that states what is and what is not permissible behavior in recruiting. Sure the Manual talks about institutional responsibility in recruiting and outlines time periods to call and visit and make contacts, but it does not lay out the basic theory of why and how recruiting should occur. The one area it does become specific in is section 13.01.2, which is entitled Entertainment and states the following:

A member institution may provide entertainment (per Bylaw 13.5)At a scale comparable to that of normal student life and not excessive in nature, to a prospect and his or her parents (or legal guardians) or spouse only at the institution's campus (or, on an official visit, within 30 miles of institution's campus). Entertainment of other relatives or friends of a prospect at any site is prohibited.

Section 13.5.2 adds, "A member institution may not arrange or permit excessive entertainment of a prospect on the campus or elsewhere (e.g., hiring a band for a dance specifically for the entertainment of the prospect, a chauffeured limousine, a helicopter). I wonder, would taking a recruit to a strip club be considered excessive entertainment? Section 13.6.2.1, which deals with air transportation, states that "a member institution may pay the prospect's actual round-trip transportation costs for his or her official visit to its campus, provided a direct route between the prospect's home and the institution's campus is used. Use of a limousine or helicopter for such transportation is prohibited." I assume that means that you can fly a prospect to your campus in a private jet? If you look at Section 13.6.2.3.2 you will find that an institution may use its own airplane to transport a prospect to the campus for an official visit, provided relatives, other friends or legal guardian(s) do not accompany the prospect. So if University A has a private jet or has a fractional ownership of a jet, they can transport the prospect to the campus in that jet. However, the prospect's parents cannot come along. Is this a recruiting visit without the parents and does this mean that we might have a university flying a seventeen year old to the campus from his/her home in a private jet with only the prospect and the pilots?

Pretty big stuff in deciding if this is the university for you.

The NCAA rules represent an attempt to provide legislation to remedy specific instances of bad behavior. I would not be surprised if next we have a rule that will now outlaw the use of private jets. What is missing is a set of rules that look at the whole picture--the goals and the objectives. The NCAA rules need to be reviewed and revised.

COMPETITIVE ADVANTAGE

If you have any dealings with college athletics you will come into contact with the phrase "competitive advantage." We are not talking about an advantage on the playing field but an advantage that exists in recruiting prospects to attend your institution. From how many charter trips the team will be able to make, to the number of student athletes who will be allowed to attend summer school regardless of academic need, to the ability to have student athletes live off campus to generate extra cash money; these are just a few of the things coaches are concerned about that fit within the framework of competitive advantage. The NCAA is also interested in this concept and deals with it under the term "level playing field." Well, we all want a level playing field don't we? Or do we? Recruiting and the perks (legal and illegal) are the essence of the problem. The rules, which need to be revised, and the way in which we conduct our recruiting has to come to a point where those with more money or more resources, or those willing to bend the rules, are not placed in a position of advantage over the others. In recruiting, the playing fields are not level and this is a huge problem. If you can fly a young person on a private jet, allow them to stay in a suite in the best five star hotel and dine them on steak and lobster at the city's finest restaurant, and others must fly them commercial, place them in a student dorm and have them eat at the university, I fear you will have a competitive advantage. I fail to understand what any of it has to do with the educational opportunities our universities have to offer or the quality of our athletic programs, but rest assured, it is impressive to many a seventeen or eighteen-year-old prospect. We must remove the competitive advantage that does exist within our recruiting process.

EDUCATION

How much of the recruiting actually centers on the educational aspect of the university and the prospect's desire for an education? Of course, if the prospect demands to see the biology labs or the library that will happen, but what if they don't ask those questions. How much time is spent with professors, academic support and tutoring, or seeing a classroom? We will certainly make sure that you see the weight room and hear how the strength coach will build you up. We will certainly make sure you visit the locker room and see where your name will appear in the room and on a jersey. We will make sure that you know who your teammates will be, where the games are played and some of the hot social spots on campus or in the neighboring communities. All fine, but aren't you coming to college? Or maybe this is just about your athletic ability. We need to redesign our recruiting to more clearly focus on the educational aspect of college life. If we do not make this important during recruiting, the prospect may believe it is not important to us and maybe not important to them as well. A one or two hour period on education over a forty-eight hour visit is not enough time. I am sorry to state that most recruits will spend more time in the downtown club than they will on the educational aspects during their official visit. This must be changed. When undergraduates approach me about going to law school, I do not tell them to find some law students and go party with them. I strongly suggest that they talk to some law professors, talk to some lawyers, and by all means read something about the law and visit at least one of my law classes. Why do we purposely separate or downplay the educational part of college in the recruiting process? Are we scared it will chase the prospect away?

INSTITUTIONAL CONTROL AND RESPONSIBILITY

One of the major parts of the NCAA structure that evolved from the recommendations of the Knight Commission and the NCAA President's Commission is the concept of institutional control. An athletic program that is not integrated into the mainstream of the university is an athletic program that is separate. An athletic program that is separate from the university is an athletic program that is not controlled by the institution. An athletic program that is not controlled by the institution is an athletic program waiting for a disaster. In the area of recruiting, who is in charge at the institution? Who sets the standards for who gets recruited, who does the recruiting, what is recruiting about and how do we go about doing the recruiting? What role does the faculty play, what role do the student athletes play, and most importantly, what role does central administration play in recruiting and

recruiting policies and procedures on our campus? I had a parent of a prospect tell me during their young person's visit to our campus that this was the only school where they met someone from central administration. The parent made that statement while I was introducing them to our Provost, Nick Zeppos, and Vice Chancellor for Public Affairs, Michael Schoenfeld. Do we as administrators know why recruiting is taking place? Do we know how it is being conducted? Have we reviewed and approved the policies we have for recruiting? Or is this just the purview of the athletic department? What is the policy for student athletes who are to serve as hosts for a prospect? Where can they take the prospect? Can they take a seventeen or eighteen year old individual to a bar? A nightclub? A strip joint? Must the student athlete host document where they went? Can they leave the city where the university is located? I remember some years ago when a major university was recruiting a young basketball player. On his official visit to the campus, his student athlete host took him to a nearby major city (which was about 30 to 40 miles away) to a party (allegedly at the home of a booster) and on the way back they were in a car accident. Did the athletic department know they were going the major city? Was it prohibited? Did the university administration know they were going to the major city? Was it ok? Would anyone have known about this trip but for the accident? Did the student athlete host violate any university policy or procedure, and if so what was his punishment?

University administrators must gain control of this process. It is not enough to look the other way and leave it up to someone else. We are in control of the university, or at least we should be. There must be clear policies and procedures as to what can be done and what cannot be done in recruiting, and all athletic personnel must know and understand them. These policies and procedures need to be clear to the student athletes and to the prospects and their parents. We need to put these in front of each prospect and his or her parents and ask them to comment on whether or not our host followed these rules.

I once got a call from a parent of a prospect who wanted to talk confidentially to me about the recruiting of his child. He said the child loved the university and really wanted to go to our school, but had a bad experience on the official visit. It seems that the student athlete host decided that they should go out drinking and then to a couple of late night parties. This was something in which the prospect was not the least bit interested. The prospect was under drinking age, did not drink and was concerned about the place and structure of the parties. Fortunately the prospect's hometown was not that far away, and a call to the parents by the prospect resulted in the parents driving down and picking up their child and returning home. They did come back the next day to finish the visit. The parent called me, not to complain, but was concerned that since his child did not do what the host had planned that the host and teammates of the host might think that the prospect was not a fun, cool person. I explained to the parent this never should have happened and their child was just the type of kid we wanted. One who can make their own decisions and not be led by the group. But really, how many seventeen-year-old young people would have, and could have, done what this one did. Another thing that we need to look into is the use of female students as hosts for our football and men's basketball prospects. I do not see this existing for other sports and I only see females in this role. While we have it with our Gold Stars at Vanderbilt, I must confess I am not at all comfortable with it even though I know the young ladies involved and consider them to be outstanding young folks with integrity and strong value systems. However, I am concerned about what this says about us as an institution and how we go about using women in selling our institution to prospective male students and their parents.

STUDENTS

Finally, we need to ask ourselves what does all this recruiting mean to the students and prospective students? What are they interested in and what do they get out of this? How do they feel about these things, and do our efforts match with their needs? To me this is clearly in the NCAA's purview of student-athlete welfare. I have always talked to our students, whether student athletes or other students. I have always been concerned about our views of serving them and whether we are giving them what they need and expect. I purposely have been asking student athletes and more so, former student athletes, about the recruiting process. Unlike my law school students and much of the public, the student athlete population seems not to be as concerned with the violations. However, I have noticed they are not as aware as one would think about what is a recruiting violation. Most believe they get too many calls doing the recruiting process but actually do like the perks. However, almost none of them mention academics or the educational aspect as some-

thing they remember or actually focus on (however my conversations with the parents are different). The students are concerned with who will be their teammates, do they like this group and does the group like them. How is the coach, and what about winning and tradition. Of course a nice visit with great food and good social life helps, but is not the deciding factor. The NCAA rules force a student athlete who has accepted a scholarship at one university and attended that university to sit out a year if they decide to transfer. I am sure there was a good reason and a situation that prompted this rule. The explanation is that the student athlete makes the decision based on the school, not the coach and not the team. How far from the truth can we be? This is clearly a situation where we are not listening to the kids. This is not the place to debate the transfer rule, nor am I advocating that at this time, but a coach can leave and go to another school and does not have to sit out any time. Are our rules really supporting the kids? We need to recognize why these young people are choosing our universities and start to address the real needs and wants of these folks and our universities. The kids tell me yes, these competitive advantage type things have some influence on them, but at the end the day they want to play their sport at the college level and hopefully attend school and receive an education. All of the rest is just fluff and not necessary if we can truly level the playing field. While Miles Brand has created a new NCAA Task Force on Recruiting, and I commend him for that and for all he is doing to help intercollegiate athletics get back on the right foot, I submit that the NCAA already has a subcommittee on Recruiting at the Academic/Eligibility/Compliance Cabinet level. In fact, I was just appointed to it last month. Great committee, great folks, but in the short time I was at the first meeting one of the major issues that we were asked to review dealt with whether or not we should recommend the continuation of the printing of the media guides. Whether the new task force or the old committee, we have to start dealing with the real issues. Yes they are tough, but it is the only way to save this great thing called college athletics. I strongly suggest that we start by listening to the student athletes and former student athletes to really learn about recruiting, and not just the kids that are on the student athletic advisory boards but the others. The ones who might be reluctant to talk, the ones with whom you have to build trust, and the ones who might only talk with former athletes themselves.

After all isn't this suppose to be about the kids?

Mr. STEARNS. I thank the gentleman.

Dr. Hoffman, welcome.

STATEMENT OF BETSY HOFFMAN

Ms. HOFFMAN. Thank you, Mr. Chairman. I am Elizabeth Hoffman, President of the University of Colorado, a four-campus university system.

I would also like to thank the ranking minority member, Congresswoman Schakowsky; Congresswoman DeGette from my home state, thank you for introducing me; and the other members of the subcommittee for giving me the opportunity to speak on this very important issue.

I especially want to thank Congressman Udall, who represents the district that the University of Colorado-Boulder campus resides in. He cannot be with us today. But I would like to recognize Congressman McInnis and Congressman Beauprez who did accompany me today.

I would like to begin by sharing a few facts about our university with the subcommittee. The CU-Boulder campus is a community of 29,000 students, most of whom are between the ages of 18 and 23, and an outstanding faculty of over—and staff of over 7,200. We have a great academic history. We are dedicated to providing a superior education and opportunities for personal growth and development for our students.

Three Nobel Prize winners and seven McArthur Genius Award winners are current or recent CU faculty members. Among public

universities, we rank fifth in the Nation by the National Science Foundation and first by NASA. Seventeen CU graduates have flown in space as astronauts. A survey just published in *The Economist* ranked CU-Boulder as the eleventh best public university in the entire world.

We are building a new state-of-the-art Health Sciences Center at the former Fitzsimmons Army Medical Base in Aurora. The overwhelming majority of our students are intelligent, responsible, ethical men and women who care deeply about each other and about their university.

They want and expect a first-rate education, but recently the outstanding achievements of our students, faculty, and staff have been overshadowed by very troubling allegations about our football program. Among other things, there are allegations that sex and alcohol may have been used to lure recruits.

At the present time, some of these matters are the subject of a criminal investigation by the Colorado Attorney General, and some are the subject of private civil litigation against the University of Colorado. As of today, no criminal charges have been filed, and there have been no findings in any court.

We do not yet know all the facts with regard to these allegations. Much of the evidence involves issues of privacy and confidentiality, and in a number of instances the evidence is conflicting. Nonetheless, I want to assure this subcommittee that we take these allegations extremely seriously, and that we are moving rapidly and responsibly to address the situation.

We will do everything in our power to find out what did happen and to take appropriate corrective steps. So let me tell you some of the steps we have already taken.

First, at my urging, the Board of Regents established an independent investigative committee to examine the allegations related to recruiting and our athletic culture. Committee members include, among others, two former Colorado Supreme Court Justices, two former legislators, a former prosecutor, and victims assistance experts.

Second, we strongly supported the Governor's naming of the Colorado Attorney General as a special prosecutor to investigate allegations of criminal wrongdoing.

Third, we appointed John DiBiaggio, a nationally renowned expert in athletic reform and former president of three distinguished universities, to examine our athletic department policies, practices, management, and operations, and to make recommendations for improvement.

Fourth, we placed the head football coach on paid administrative leave pending the outcome of these investigations.

Fifth, we have intensified our ongoing review of our policies and procedures, not just with regard to the football program and recruiting, but also with regard to alcohol abuse, sexual harassment, and sexual assault on campus.

Sixth, last week we announced what we believe to be the Nation's most stringent set of policies and practices in Division I-A football recruiting. The new policies and procedures are in addition to the standards of conduct currently in place, rules that already exceeded those required by the NCAA.

We believe that eliminating unsupervised time on campus, eliminating the use of student hosts, imposing an 11 p.m. curfew, and reducing the total time of the visit from the 2 days allowed by the NCAA to 1 day will provide an enhanced level of oversight.

We will not tolerate harassment or exploitation in our athletic department or anywhere in our university. We are determined to restore the confidence in the University of Colorado's ability to create an exemplary athletic and campus culture. We are determined to have a high level of oversight and accountability in our football program and our athletic department.

As we learn more from the ongoing investigations, we will take swift and decisive action as appropriate. As painful as this experience has been, we view it as an opportunity to set the standard for athletic recruiting and campus culture. Our vision is to become a national leader for culture of personal respect and responsibility in our football and athletic programs and throughout the campus.

Again, I want to thank the subcommittee for this opportunity, and I will be happy to answer any questions when the time comes.

Thank you very much.

[The prepared statement of Elizabeth Hoffman follows:]

PREPARED STATEMENT OF ELIZABETH HOFFMAN, PRESIDENT, UNIVERSITY OF COLORADO

Thank you, Mr. Chairman.

I want to thank the ranking minority member, Rep. Schakowsky, Rep. DeGette from my home state of Colorado, and the other members of the Subcommittee for giving me the opportunity to speak on this important topic. I especially want to thank Representative Udall, whose district includes the University of Colorado Boulder Campus, and Representative McInnis from Colorado's Third Congressional District, for accompanying me today.

Before I address the topic of this hearing, I would like to give the Subcommittee a few facts about our great University.

The four-campus University of Colorado System is a multi-billion dollar economic enterprise that benefits not only Colorado's citizens, but has a track record of excellence and world-wide influence.

The CU-Boulder campus is a community of 29,000 students and an outstanding faculty and staff of over 7,200. We have a great academic history and mission—to be a world-class research and educational institution that serves the citizens of Colorado and the nation. We are dedicated to providing a superior education and opportunities for personal growth and development for our students.

Three Nobel Prize winners, and seven MacArthur Genius Award winners are current or recent CU faculty members. In fact, only Harvard equals CU's record of having MacArthur awardees for each of the past four years. Among public universities, we are ranked fifth in the nation by the National Science Foundation and first by NASA. Seventeen CU graduates have flown in space as NASA astronauts. That is among the highest output of any university in the nation. We are in the process of building a new state of the art Health Sciences Center at the old Fitzsimons Army Medical Base in Aurora, Colorado. And these are only a few of our accomplishments.

The overwhelming majority of our students are intelligent, responsible, ethical men and women who care deeply about each other and their university. They want and expect a first-rate education.

Recently, the outstanding achievements of our students, faculty, and staff have been overshadowed by deeply troubling allegations about our football program. Among other things, there are allegations that sex and alcohol may have been used as recruiting tools, and that other inappropriate or even illegal conduct has occurred.

At the present time, some of these matters are the subject of a criminal investigation by the Colorado Attorney General and some are the subject of private civil litigation pending against the University. As of today, no charges have been filed. There have been no findings by any court. We do not yet know all the facts about

these allegations. Much of the evidence involves issues of privacy and confidentiality, and in a number of instances the evidence is conflicting.

Nonetheless, I want to assure the Subcommittee that we take these allegations extremely seriously and that we are moving rapidly and responsibly to address the situation. We will do everything in our power to find out what happened and to take the appropriate corrective steps.

Among the steps we already have taken are the following:

- At my urging, the Board of Regents established an Independent Investigative Committee to examine the allegations related to recruiting and our athletic culture. Committee members include, among others, two former Colorado Supreme Court justices, two former legislators, a former prosecutor, and victim's assistance experts—all outstanding citizens. We have repeatedly encouraged anyone with information about these allegations to bring it to the Independent Investigative Committee.
- We strongly supported the Governor's naming of the Colorado Attorney General as a Special Prosecutor to investigate allegations of criminal wrongdoing.
- We appointed Dr. John DiBiaggio, a nationally renowned expert in athletic reform and former president of three distinguished universities, as Special Assistant reporting directly to me and the Boulder Campus Chancellor, Dr. Richard Byyny. He will examine our athletic department policies, practices, management and operations and make recommendations for improvement.
- We placed Head Football Coach Gary Barnett on paid administrative leave.
- We have intensified our ongoing review of our policies and procedures not just with regard to the football program and recruiting, but also with regard to alcohol abuse, sexual harassment and sexual assault on campus.
- Last week, we announced what we believe to be the nation's most stringent set of policies and procedures regarding Division 1A football recruiting. The new policies and procedures are in addition to the standards of conduct currently in place—rules that already exceeded those required by the NCAA. We are determined to implement measures to make our recruiting practices the most responsible in the country. One of the new rules eliminated unsupervised time on campus for recruits. A parent or coach will have to accompany each recruit during a highly structured visit to the campus. Recruiting visits will be only one night instead of two, and the curfew will be moved from 1 a.m. to 11 p.m. We also eliminated the practice of using student hosts with whom recruits had spent unsupervised time. I have provided the Subcommittee with the complete details of this new policy.

We will not tolerate sexual harassment or exploitation in our athletic department or elsewhere in the University. Abusive behavior affects not only the victim, but is harmful to the learning environment and to the sense of community within the University.

We are determined to restore confidence in the University of Colorado's ability to create an exemplary athletic and campus culture. We are determined to have a high level of oversight and accountability in our football program and athletic department. As we learn more from the ongoing investigations, we will take swift and decisive action, whenever appropriate.

As painful as this experience has been, we view it as an opportunity to set the standard for athletic recruiting and campus culture. Our vision is to become a national model for a culture of personal respect and responsibility in our football and athletic programs and throughout the campus.

Again, I want to thank the Subcommittee for offering me this opportunity. We look forward to working with the NCAA and with our colleagues at other universities to address these extremely important issues. I am happy to respond to any questions you may have.

UNIVERSITY OF COLORADO AT BOULDER FOOTBALL RECRUITMENT POLICY CHANGES

SUBMITTED FOR THE HOUSE SUBCOMMITTEE ON COMMERCE, TRADE AND CONSUMER PROTECTION, COMMITTEE ON ENERGY AND COMMERCE

Summary

Recruitment guidelines at the University of Colorado at Boulder have been revised several times in recent years. Changes were made in 1998 and again in 2002, resulting in improvements and further strengthening of procedures, practices and expectations. Further revisions were announced on March 4, 2004, as part of a new model for football recruiting practices.

In summary, the new model will:

- * Strengthen and clarify behavioral expectations for recruiting visits
- * Change the schedule and timing of recruiting visits
- * Require adult supervision of recruits during the entire visit
- * Prohibit participation in private parties
- * Establish an earlier curfew for the overnight stay.

Revised Guidelines

Specific guidelines within the new model include:

- * The Head Football Coach will continue to communicate the recruiting guidelines to student-athletes.
- * Football recruiting visits to campus will occur primarily after completion of the regular football season, with only a few exceptions such as visits by local recruits or other extraordinary circumstances approved by the Chancellor.
- * Prior to the visit, prospective student-athletes, parents, and high school coaches will continue to receive letters explaining all expectations, including behavioral standards.
- * Recruitment visits will be limited to one overnight stay, rather than the current two-night stay.
- * Prospective student-athletes will be supervised by their parents or a designated coach from the time of arrival until departure. The involvement of player hosts will be discontinued.
- * On the night of arrival, curfew will be set at 11:00 p.m., rather than the current 1:00 a.m. curfew, and will be documented by a designated coach.
- * Recruitment day will be scheduled and supervised by Athletics Department staff and will include:
 - * Breakfast with coaches and players
 - * Meetings with faculty members and academic advisors
 - * Review of campus academic expectations, support services and sportsmanship issues
 - * Review of campus and program policies, processes and expectations regarding responsible alcohol use, sexual and other assault, date rape, sexual harassment, and all aspects of the Student Code of Conduct
 - * Meetings with football staff, departmental staff and players
 - * A mandatory exit interview will be held with each recruit who visits the campus.
 - * Departure for home in the late afternoon or evening of the recruitment day.
- * Recruits already are prohibited from using alcohol or drugs. They also are specifically prohibited from attending private parties or entering bars or strip clubs.
- * All activities attended by recruits will be planned, approved and supervised by a designated coach.
- * Coaches, student athletes and recruits continue to be required to adhere to all NCAA regulations prior to and during a recruiting visit.

Enforcement of Recruitment Guidelines

Sanctions for violations will be strengthened and clarified for all involved in the recruitment process. Specific sanctions include:

- * Any prospective student-athlete violating recruitment guidelines will not be admitted to the University.
- * Violations by current student-athletes or coaches will result in disciplinary action appropriate to the level of severity of the violation.
- * Violations of recruiting guidelines by current student athletes which could also result in violations of the CU-Boulder Student Code of will be referred immediately to the campus Office of Judicial Affairs for prompt investigation and adjudication.

Mr. STEARNS. Thank you.
Mr. Berst.

STATEMENT OF S. DAVID BERST

Mr. BERST. Thank you. Chairman Stearns, Ranking Member Schakowsky, and other—are you hearing me?

Mr. STEARNS. I think you just have to bring it a little closer to you.

Mr. BERST. Okay. Thank you. Do you have me now?

Mr. STEARNS. I think it is on.

Mr. BERST. It is on now.

Mr. STEARNS. All right.

Mr. BERST. Chairman Stearns, Ranking Member Schakowsky, and other distinguished members of the subcommittee, I appreciate the opportunity to appear before you regarding the national association's newly formed task force. One of the NCAA's first principles is indeed the well being of student athletes being of paramount importance to the association.

Headlines of the last 3 weeks, however, suggest that the well being of students and student athletes is at risk on many campuses. We have seen allegations of behaviors that are morally reprehensible and organizationally unacceptable. The University of Colorado is not the only campus where it has been charged that recruiting practices, especially those associated with official visits, exceeded standards for acceptable behavior.

Let me be clear as well. The use of alcohol, drugs, and sex as recruiting inducements cannot and will not be tolerated. Revelations of activities that include such practices on campuses should be a wakeup call to all campuses to reassess standards and practices to reaffirm values and to reiterate the expectations for behaviors and the consequences if those expectations are not met.

The campus and its administrators are the first line of defense. They are the ones, as President Hoffman has done this past week, who must draw the boundaries around what a university will and will not do in the very competitive world of intercollegiate athletics.

When allegations relate to criminal acts or violations of law, it was rightly pointed out that such allegations are not within the purview of the NCAA and are rightly investigated by campus and law enforcement authorities. The association, however, does have a responsibility through its members to set national policy and to govern various practices of an intercollegiate athletics program.

Once approved, however, it is the responsibility of each campus to apply the bylaws to local practices. The ideal would be an NCAA—and NCAA institutions—where headlines of crimes and violations of either laws or bylaws appear so rarely that we are struck by their infrequency rather than their common occurrence.

There are three important questions about why I am here today. What is the role of the NCAA in regard to past recruiting and recruiting visits? How has the NCAA responded? And what will its role be in the future?

The official visit is an important event for the decision making process for a high school athlete and the institution. This is a time for the athlete, and hopefully the family, to spend time on the campus, get a feel for the environment, look over athletic facilities, meet coaches and other personnel.

NCAA rules to date largely do, in fact, address logistical issues. These bylaws cover the length of an official visit, the number of visits, the amount that can be spent, the radius where entertainment can take place. There is little in the bylaws that attempts to define the behavior of an institution or prospect during such visits.

The NCAA rules have presupposed that institution will employ—institutions will employ a level of common sense and common decency to guide behavior. Failing that, however, the NCAA should

indeed step in and address both the elements of an official visit and the expectations and accountability for behavior.

Within a few days of the first headlines, NCAA President Miles Brand responded by creating an ad hoc task force to address recruiting issues and appointed me as the chair. It is the sole role of this task force to fast track a review of the issues of NCAA legislation to recommend solutions. The task force intends to propose changes that ensure an adequate opportunity for prospects to evaluate the academic, campus, social, team, and community environments, while also requiring standards of appropriate conduct and accountability.

The task force also begins its work with the presumption that regardless of the actual scope of alleged misbehaviors we should normalize the recruitment of student athletes to approximate what other exceptional prospects receive, such as music or art prodigies.

We do not intend to go through another recruiting season without new standards in place. And when those standards are in place, violations will be investigated and adjudicated swiftly.

Finally, allow me to note that university presidents will continue to carry the burden in setting standards at the campus level and holding institutions—individuals accountable. The role of the NCAA as an association is to support those efforts through effective national policy that leaves room for institutional discretion.

In the long run, however, success will come only when those involved in the operation of intercollegiate athletics programs sincerely believe and support the principle that doing the right thing is at least as important as getting the right recruits.

Thank you.

[The prepared statement of S. David Berst follows:]

PREPARED STATEMENT OF S. DAVID BERST, NCAA VICE-PRESIDENT FOR DIVISION I
AND CHAIR, NCAA TASK FORCE ON RECRUITING

Chairman Stearns, Ranking Member Schakowsky and other distinguished Members of the Subcommittee, on behalf of the National Collegiate Athletic Association, I appreciate the opportunity to appear today and inform you of the Association's role regarding recruiting practices and the newly formed task force that will review NCAA recruiting rules and bylaws. I am David Berst, NCAA vice-president for Division I and chair of the NCAA Task Force on Recruiting. I have been employed by the NCAA for more than 30 years and have worked directly with the Division I governance structure during the last five years. Division I is composed of 329 colleges and universities and is one of three divisions within the NCAA, a private association of approximately 1,200 four-year institutions of higher education and athletics conferences. There are some 360,000 student-athletes competing at these NCAA member schools.

It is the NCAA's first principle and an article of faith between higher education and the students they serve that the well-being of student-athletes is of paramount importance to the Association, by which I mean to include the member institutions, the national office staff, the governance entities and the body of bylaws that govern intercollegiate athletics. The headlines of the last three weeks, however, suggest that the well-being of students and enrolled and prospective student-athletes is at risk on many campuses. We have seen allegations of behaviors that are morally reprehensible and organizationally unacceptable. Although the University of Colorado has been a focal point for such allegations, it appears not to be the only campus where it has been charged that recruiting practices—especially those associated with official visits—exceed standards for acceptable behavior. Let me be perfectly clear. The use of alcohol, drugs and sex as recruiting inducements cannot and will not be tolerated.

ROLE OF THE CAMPUS

NCAA President Myles Brand has said publicly that revelations of activities that include such practices on any campus should be a wake-up call to all campuses to reassess their standards and practices, to reaffirm the values of their institutions with which intercollegiate athletics must align, and to reiterate the expectations for behaviors and the consequences if those expectations are not met. Indeed, as the University of Colorado has demonstrated, the campus and its administrators are the first line of defense. They are the ones, as President Hoffman has done this past week, who must draw the boundaries around what a university will and will not do in the very competitive world of athletics recruiting. One university trying to outdo another for the attention of highly talented high school seniors is nothing new. The success of any sports endeavor begins with the ability to assemble athletically proficient individuals whose skills match the needs of a team at a particular point of time. Being just one player short in a critical spot can make the difference between an average season and a good one and between a good season and a championship year.

Competition for recruits has been guided primarily by NCAA bylaws that attempt to create a "level playing field" for all within a division. Even so, individual institutions have retained discretion over recruiting practices and the length to which one school will compete with another for a particular prospect. Indeed, there may be disagreement from campus to campus about what the boundaries should be. However, no one would argue that recruiting practices, or any other practices and behaviors associated with higher education and intercollegiate athletics, should extend to breaking the law or abridging the morals of society.

LAWS VS. BYLAWS

Some of the allegations at Colorado and on other campuses relate to criminal acts or violations of law. Such allegations are not within the purview of the NCAA and are rightly investigated by the campus and law enforcement authorities. If there is evidence of wrongdoing, charges are drawn, arrests are made and trials are held. There is no role for the NCAA in allegations of rape or other criminal activity. Investigating such allegations rests entirely with law enforcement agencies at the local, state or national levels.

The Association, however, does have the responsibility through application of the will of its members to set national policy or bylaws that govern the various practices of an intercollegiate athletics program. These bylaws include standards for such activities as the conduct and employment of personnel, amateurism, the length of playing and practice seasons, financial aid and recruiting—to name only a few. Proposals establishing or amending these bylaws derive entirely from the membership of the Association. They debate and either approve or reject every proposal. Once approved, it is the responsibility of each campus to apply the bylaws to their local practices. The national office staff can and does assist in the process through interpretation of the bylaws with regard to specific case application, and the enforcement staff is charged with investigating alleged violations of the Association's bylaws and for presenting cases to a committee of institutional peers for adjudication when the facts appear to support that violations have occurred.

It is critical to understand the differences among allegations at Colorado in the current instance or any other institution between violations of criminal law and violations of NCAA bylaws. And yet, the NCAA and higher education understand that there is a responsibility within college sports to create an appropriate environment for sports on campus. It should be an environment in which the operation of intercollegiate athletics is aligned with institutional values, moral precepts and respect for human kind in such a way that headlines decrying violations of either laws or bylaws appear so rarely that we are struck by their infrequency rather than their common occurrence.

ROLE OF THE ASSOCIATION

There are three important questions relevant to my appearance before you today. What has been the role of the NCAA as an association with regard to recruiting and recruiting visits? How has the NCAA responded to the current allegations of recruiting visit abuse and what will be its role in the future?

The official visit is an important event in the decision-making process for a high school athlete. These athletes have likely already been in correspondence with a number of coaches from various colleges and universities, have probably had some of them in their homes to meet with their parents, and have begun the process of narrowing their search for a campus that is right for them. The official visit is the

time for the athlete, and hopefully the family, to spend time on the campus, to get a feel for the environment, to look over the athletics facilities, to meet the coaches and other personnel and to get to know potential teammates.

The role of the NCAA to date in this process has been largely to address logistical issues. (A comprehensive collection of the Association's bylaws with regard to official visits is attached to this testimony for the subcommittee's review.) These bylaws cover the length of the official visit, the amount that can be spent on entertainment for the prospect, issues around transportation, policies regarding accompanying individuals, the cost of meals and lodging, and the role of student hosts. Except for general language in Bylaw 13.5.2 that addresses excessive entertainment, there is little in the bylaws that attempts to define the behavior of the institution or prospect during official visits. NCAA recruiting rules presuppose that institutions will employ a level of common sense and common decency to guide behavior. It appears that there is agreement that this is no longer sufficient and that the NCAA should act swiftly to address both the elements of an official visit and the expectations and accountability for behavior.

NCAA TASK FORCE ON RECRUITING

Within a few days of the first headlines regarding allegations of the use of sex and alcohol during recruiting visits, NCAA President Brand responded by creating an ad hoc task force to address recruiting issues and appointed me as chair. It is the role of this task force to "fast track" a review of the issues, NCAA legislation, and to recommend solutions. The task force intends to propose changes that ensure an adequate opportunity for prospects to evaluate the academic, campus, social, team and community environments, while also requiring standards of appropriate conduct and accountability. As chair, I also asked the task force to begin its work with the presumption that regardless of the actual scope of alleged misbehaviors, it will consider possible changes that focus on a process appropriate for exceptional students (e.g., music, art, mathematics prodigies) making a visit to a prospective campus and not just prospective student-athletes. In other words, how can we normalize the recruitment of student-athletes to approximate what other exceptional prospective students would experience?

Although the work of the task force has only begun—in fact, it has had only one teleconference and will not meet in person until March 29—the process for review and consideration of alternatives began almost immediately. A group of national office staff members have met twice to propose options for the task force to consider. To provide some flavor for changes under consideration, the following are examples of discussion suggestions in five areas: transportation, meals and lodging, entertainment, game day activities, duration of official visit, and official visit activities.

1. Transportation.

a. Require institutions providing air transportation to and from an official visit to use commercial transportation at coach-class airfare; prohibit institutions from using institutional and noncommercial airplanes.

b. Permit institutions to cover the transportation costs of any parent or legal guardian accompanying the prospect during the official visit.

2. Meals and Lodging.

a. Require institutions to provide lodging to prospects on official visits that is comparable in value to lodging permitted by the institution for institutional staff members during business trips.

b. Require institutions to provide lodging on campus.

c. Require institutions to provide meals to prospects during official visits in institutional dining facilities used by the general student body.

d. Require institutions to provide meals to prospects during official visits that do not exceed the value of the meal allowed to institutional staff members while on institutional business trips.

3. Entertainment.

a. Eliminate all off-campus entertainment.

b. Eliminate all off-campus entertainment that is not supervised by an institutional staff member.

c. Require institutions to use host programs that are used when providing tours to prospective students who make campus visits.

4. Game Day Activities.

a. Prohibit institutions from arranging miscellaneous, personalized promotional activities (e.g., game-day jerseys that include the prospect's name) during a prospect's official visit.

b. Prohibit institutions from engaging in any game-day simulations during a prospect's official visit.

5. Duration of Official Visit.

a. Eliminate all official visits; require all visits to an institution's campus to be self-financed by the prospect.

b. Reduce the length of the visit to from 48 hours to 24 or 36 hours.

c. Reduce the number of official visits that a prospect may take from five to either four or three visits.

6. Official Visit Activities.

a. Require institutions to organize activities for prospective student-athletes during official visits that are identical to activities that are organized or arranged for prospective students in general who make campus visits.

b. Require prospects to attend a class or academic orientation session during an official visit.

CONCLUSION

President Hoffman and the University of Colorado took an important and self-sacrificing step last week with new standards for official visits. The result may be that the school has put itself at a competitive disadvantage with other schools that do not impose similar limits. Some of the steps President Hoffman took may be the same as those recommended by the NCAA Task Force on Recruiting, which would have the effect of reducing or eliminating the competitive risk to Colorado. We will know soon. Not only is the review by the task force being "fast tracked," but so is the development of new policy. Like other legislative or quasi-legislative bodies, the NCAA's process often is deliberative and can appear to move slowly. The work of the task force will move much faster. We do not intend to go through another football recruiting season without new standards in place.

And when those standards are in place, violations will be investigated and adjudicated swiftly. University presidents carry the burden in setting standards at the campus level and holding individuals accountable. The role of the NCAA as an Association is to support those efforts through effective national policy that leaves room for institutional discretion. In the long run, success will come only when those involved in the operation of intercollegiate athletics programs sincerely believe and support the principle that doing the right thing is at least as important as getting the right recruits.

Thank you.

SUMMARY OF NCAA BYLAWS REGARDING OFFICIAL RECRUITING VISITS

13.5.1 General Restrictions

An institution may entertain a prospect and his or her parents [or legal guardian(s)] or spouse, at a scale comparable to that of normal student life, only on the institution's campus (or, on an official visit, within 30 miles of the institution's campus). It is not permissible to entertain other relatives or friends of a prospect at any site. For violations of this bylaw in which the value of the offer or inducement is \$100 or less, the eligibility of the individual (i.e., prospective or enrolled student-athlete) shall not be affected conditioned upon the individual repaying the value of the benefit to a charity of his or her choice. The individual, however, shall remain ineligible from the time the institution has knowledge of the receipt of the impermissible benefit until the individual repays the benefit. Violations of this bylaw remain institutional violations per Constitution 2.8.1, and documentation of the individual's repayment shall be forwarded to the enforcement staff with the institution's self-report of the violations. (*Revised: 4/24/03 effective 8/1/03*)

13.5.1.1 Athletics Representatives

Entertainment and contact by representatives of the institution's athletics interests during the official visit is prohibited.

13.5.2 Excessive Entertainment

A member institution may not arrange or permit excessive entertainment of a prospect on the campus or elsewhere (e.g., hiring a band for a dance specifically for the entertainment of the prospect, a chauffeured limousine, a helicopter).

13.5.3 Purchase of Game Tickets

An institution may not reserve tickets for purchase by a prospect (or individuals accompanying the prospect) to attend one of its athletics contests except on an official visit (see Bylaw 13.7.5.2). Tickets may be purchased only in the same manner as any other member of the general public. *(Adopted: 1/10/92)*

13.5.4 Complimentary Admissions—Conference Tournaments

Conferences approved to host an NCAA YES clinic in conjunction with their conference championship may provide complimentary admissions to YES clinic participants to the conference championship. *(Adopted: 1/14/97)*

13.5.5 Professional Sports Tickets

Tickets to professional sports contests made available to a member institution on a complimentary basis may not be provided to prospects.

13.5.6 Alumni and Friends

An institution's staff member or a representative of its athletics interests may entertain alumni or other friends of the institution in the home town of a prospect, provided those entertained are not friends of any particular prospect being recruited by the institution.

13.6.2.1 General Restrictions

A member institution may pay the prospect's actual round-trip transportation costs for his or her official visit to its campus, provided a direct route between the prospect's home and the institution's campus is used. Use of a limousine or helicopter for such transportation is prohibited.

13.6.2.2 Automobile Transportation

When a prospect travels by automobile on an official paid visit, the institution may pay round-trip expenses to the individual incurring the expense (except the prospect's coach as provided in Bylaw 13.9.1.1) at the same mileage rate it allows its own personnel. Any automobile may be used by the prospect, provided the automobile is not owned or operated or its use arranged by the institution or any representative of its athletics interests. *(Revised: 1/11/94)*

13.6.2.2.1 Prospect's Friends and Relatives

A prospect's friends, relatives or legal guardian(s) may receive cost-free transportation to visit a member institution's campus only by accompanying the prospect at the time the prospect travels in an automobile to visit the campus.

13.6.2.2.2 Use of Automobile

The institution or representatives of its athletics interests shall not provide an automobile for use during the official visit by the prospect or by a student host.

13.6.2.2.3 Coach Accompanying Prospect

Except as permitted in Bylaw 13.6.2.4, coaching staff members shall not accompany a prospect in the coach's sport to or from an official visit unless the prospect travels only by automobile. If such transportation is used, the 48-hour period of the official visit shall begin when the coach begins transporting the prospect to campus. A coach who makes an in-person, off-campus contact (i.e., any dialogue in excess of an exchange of a greeting) with that prospect [or the prospect's parent(s)] during a permissible contact period prior to transporting the prospect to campus for an official visit is charged with a countable contact. Upon completion of the 48-hour period, the coach shall terminate contact with the prospect immediately. *(Adopted: 1/10/95 effective 8/1/95, Revised: 1/14/97 effective 8/1/97, 11/12/97)*

13.6.2.2.3.1 Division I-AA Football Exception I-AA

In Division I-AA football, any member of an institution's athletics department (except a volunteer coach per Bylaw 11.01.6) who has been certified pursuant to a conference certification program may provide such transportation for a prospect between the prospect's home or educational institution and the member institution. *(Adopted: 1/10/91 effective 8/1/91)*

13.6.2.3 Air Transportation

The air fare for commercial transportation for the official visit may not exceed coach (or comparable) class. Coaching staff members shall not accompany a prospect to or from an official visit when air travel is used, except as permitted in Bylaw 13.6.2.4. *(Revised: 1/10/95 effective 8/1/95)*

13.6.2.3.1 Ticket Discounts

An institution may not arrange payment of the airline ticket to allow a prospect [or the prospect's relatives, friends or legal guardian(s)] to take advantage of ticket bonuses, rebates, refunds or other benefits connected with the purchase of the ticket.

13.6.2.3.2 Institution's Airplane

An institution may use its own airplane to transport a prospect to the campus for an official visit, provided relatives, other friends or legal guardian(s) do not accompany the prospect.

13.6.2.3.3 Noncommercial Airplane

Whenever an aircraft (other than a commercial airplane) is used to transport a prospect, payment for its use shall be at the established charter rates at the airport where the craft is based. The institution shall be prepared to demonstrate satisfactorily that such payment has been made. *(Revised: 1/10/90)*

13.6.2.4 From Airport

During the official visit, any member of an institution's athletics department staff may provide transportation for a prospect and the prospect's parents or legal guardians between the campus and the bus or train station or major airport nearest the campus.

13.6.2.5 To/From Site of Competition

A prospect may be transported to campus for an official visit from the site of his or her athletics competition or the reverse arrangement, provided only actual transportation expenses are paid and the cost of the transportation does not exceed the cost of transportation between the prospect's home or educational institution and the institution's campus.

13.6.2.6 From Educational Institution

An institution may pay actual transportation costs for the prospect to return to his or her home after an official visit that originated at the prospect's educational institution, provided the cost of the transportation to the legal residence does not exceed the cost of transportation to the educational institution.

13.6.2.7 Visiting Two or More Institutions

Two or more institutions to which a prospect is making official visits on the same trip may provide travel expenses, provided there is no duplication of expenses, only actual and necessary expenses are provided, and the 48-hour visit limitation is observed at each institution.

13.6.2.8 Transportation of Prospect's Relatives, Friends or Legal Guardian(s)

An institution shall not permit its athletics department staff members or representatives of its athletics interests to pay, provide or arrange for the payment of transportation costs incurred by relatives, friends or legal guardian(s) of a prospect to visit the campus or elsewhere; however, an institution may:

(a) Provide automobile-mileage reimbursement to a prospect on an official visit, even if relatives or friends accompany the prospect; however, in that event the trip shall count as an official paid visit only for each recruited prospect in the automobile; and *(Revised: 1/11/94)*

(b) Provide local transportation between its campus and the nearest airport for the parents, relatives or legal guardian(s) of a prospect making an official visit.

13.6.2.9 Eligibility Ramifications—Restitution for Receipt of Improper Benefits

For violations of Bylaw 13.6.2 in which the value of the transportation is \$100 or less, the eligibility of the individual (i.e., prospective or enrolled student-athlete) shall not be affected conditioned upon the individual repaying the value of the benefit to a charity of his or her choice. The individual, however, shall remain ineligible from the time the institution has knowledge of the receipt of the impermissible benefit until the individual repays the benefit. Violations of this bylaw remain institutional violations per Constitution 2.8.1, and documentation of the individual's repay-

ment shall be forwarded to the enforcement services staff with the institution's self-report of the violation. *(Adopted: 10/28/97, Revised: 11/1/00)*

13.7.5.1 General Restrictions

An institution may provide entertainment, which may not be excessive, on the official visit only for a prospect and the prospect's parents [or legal guardian(s)] or spouse and only within a 30-mile radius of the institution's main campus. Entertainment and contact by representatives of the institution's athletics interests during the official visit are prohibited. It is not permissible to entertain other relatives or friends (including dates) of a prospect at any time at any site. For violations of this bylaw in which the value of the entertainment is \$100 or less, the eligibility of the individual (i.e., prospective or enrolled student-athlete) shall not be affected conditioned upon the individual repaying the value of the benefit to a charity of his or her choice. The individual, however, shall remain ineligible from the time the institution has knowledge of the receipt of the impermissible benefit until the individual repays the benefit. Violations of this bylaw remain institutional violations per Constitution 2.8.1, and documentation of the individual's repayment shall be forwarded to the enforcement services staff with the institution's self-report of the violation. *(Revised: 10/28/97, 11/1/00)*

13.7.5.1.1 Meals and Lodging While in Transit

It is permissible for an institution to pay a prospect's actual costs for reasonable expenses (e.g., meals, lodging) incurred while traveling to and from campus on the official visit.

13.7.5.2 Complimentary Admissions

During the official visit, a maximum of three complimentary admissions to a home athletics event at any facility within a 30-mile radius of the institution's main campus in which the institution's intercollegiate team practices or competes— may be provided to a prospect. Such complimentary admissions are for the exclusive use of the prospect and those persons accompanying the prospect on the visit and must be issued only through a pass list on an individual-game basis. Such admissions may provide seating only in the general seating area of the facility utilized for conducting the event. Providing seating during the conduct of the event (including intermission) for the prospect or those persons accompanying the prospect in the facility's press box, special seating box(es) or bench area is specifically prohibited. For violations of this bylaw in which the individual receives an excessive number of complimentary admissions, and the value of the excessive admissions is \$100 or less, the eligibility of the individual (i.e., prospective or enrolled student-athlete) shall not be affected conditioned upon the individual repaying the value of the benefit to a charity of his or her choice. The individual, however, shall remain ineligible from the time the institution has knowledge of the receipt of the impermissible benefit until the individual repays the benefit. Violations of this bylaw remain institutional violations per Constitution 2.8.1, and documentation of the individual's repayment shall be forwarded to the enforcement services staff with the institution's self-report of the violation. *(Revised: 1/10/90 effective 8/1/90, 1/11/94, 10/28/97, 11/1/00 4/26/01 effective 8/1/01, 4/24/03)*

13.7.5.2.1 Conference Tournaments

A member institution may not provide complimentary admissions to a prospect for a postseason conference tournament. The prospect may purchase tickets only in the same manner as any other member of the general public. *(Revised: 1/10/91 effective 8/1/91)*

13.7.5.2.2 NCAA Championships or Other Postseason Contests

The provision of complimentary or reduced-cost admissions to prospects for an NCAA championship (all rounds) or other postseason contests (e.g., bowl game, NAIA or NIT championship) constitutes excessive entertainment and is prohibited. The prospect may purchase these tickets only in the same manner as any other member of the general public. *(Revised: 1/10/92)*

13.7.5.2.3 Purchase of Game Tickets in Same Locale

An institution may reserve tickets, only for the use of immediate family members accompanying a prospect during an official visit and for seat locations adjacent to the complimentary seats being provided to the prospect. These tickets must be purchased at face value. *(Adopted: 1/10/92)*

13.7.5.3 Parking

An institution may arrange special on-campus parking for prospects during an official visit. *(Adopted: 1/10/92)*

13.7.5.4 Cash to Prospect

The institution or representatives of its athletics interests shall not provide cash to a prospect for entertainment purposes.

13.7.5.5 Student Host

The institution may provide the following to a student host entertaining a prospect:

(a) A maximum of \$30 for each day of the visit to cover all actual costs of entertaining the prospect (and the prospect's parents, legal guardians or spouse), excluding the cost of meals and admission to campus athletics events. These funds may not be used for the purchase of souvenirs such as T-shirts or other institutional mementos. It is permissible to provide the student host with an additional \$15 per day for each additional prospect the host entertains; (*Revised: 1/10/90 effective 8/1/90, 1/9/96 effective 8/1/96*)

(b) A complimentary meal, provided the student host is accompanying the prospect during the prospect's official visit; and (*Adopted: 1/10/92*)

(c) A complimentary admission to a campus athletics event, provided the ticket is utilized to accompany a prospect to that event during the prospect's official visit.

13.7.5.5.1 Eligibility Ramifications—Restitution for Receipt of Improper Benefits

For violations of Bylaw 13.7.5.5 in which the value of the benefit to the individual (i.e., prospective or enrolled student-athlete) is \$100 or less, the eligibility of the individual shall not be affected conditioned upon the individual repaying the value of the benefit to a charity of his or her choice. The individual, however shall remain ineligible from the time the institution has knowledge of the receipt of the impermissible benefit until the individual repays the benefit. Violations of this bylaw remain institutional violations per Constitution 2.8.1, and documentation of the individual's repayment shall be forwarded to the enforcement services staff with the institution's self-report of the violation. (*Adopted: 10/28/97, Revised: 11/1/00*)

13.7.5.5.2 Multiple Hosts

If several students host a prospect, the \$30 per day entertainment money may be utilized to cover the actual and necessary expenses incurred by the prospect and all hosts. Only one student host per prospect may be provided a free meal if restaurant facilities are utilized. Violations of this bylaw shall be considered a violation committed by the conference office; however, they shall not affect the student-athlete's eligibility. (*Revised: 1/10/92, 1/16/93, 1/9/96 effective 8/1/96, 4/24/03 effective 8/1/03*)

13.7.5.5.3 Nonqualifier Prohibition

The student host must be enrolled in the member institution being visited by a prospect. A nonqualifier (see Bylaw 14.02.9) may not serve as a student host during his or her first academic year in residence. Violations of this bylaw shall be considered a violation committed by the institution; however, they shall not affect the student-athlete's eligibility. (*Revised: 3/19/97, 4/24/03 effective 8/1/03*)

13.7.5.5.4 Use of Automobile

The institution or representatives of its athletics interests shall not provide an automobile for use by the prospect or the student host. For violations of this bylaw in which the value of the offer or inducement is \$100 or less, the eligibility of the individual (i.e., prospective or enrolled student-athlete) shall not be affected conditioned upon the individual repaying the value of the benefit to a charity of his or her choice. The individual, however, shall remain ineligible from the time the institution has knowledge of the receipt of the impermissible benefit until the individual repays the benefit. Violations of this bylaw remain institutional violations per Constitution 2.8.1, and documentation of the individual's repayment shall be forwarded to the enforcement staff with the institution's self-report of the violations. (*Revised: 4/24/03 effective 8/1/03*)

13.7.5.6 Student Support Group Assisting in Recruiting

An institution may not provide a free meal or entertainment to a member of an institutional student support group that assists in the recruitment of a prospect during an official visit unless the student is designated as the one student host for that prospect. Any additional arrangement between the institution and members of such a support group (e.g., compensation, providing a uniform) is left to the discretion of the institution. (*Adopted: 1/16/93*)

13.7.5.7 Meals on Official Visit

The cost of actual meals, not to exceed three per day, on the official visit for a prospect and the prospect's parents, legal guardian(s) or spouse need not be included in the \$30-per-day entertainment expense. A dessert or after-dinner snack at the coach's residence also may be excluded. (*Adopted: 1/10/92, Revised: 1/11/94 effective 8/1/94, 1/10/95 effective 8/1/95*)

13.7.5.7.1 Entertainment at Staff Member's Home

A luncheon, dinner or brunch at the home of an institutional staff member (e.g., the athletics director, a coach, a faculty member or the institution's president) may be held for a prospect on an official visit, provided the entertainment is on a scale comparable to that of normal student life, is not excessive in nature and occurs on only one occasion. (*Revised: 1/9/96*)

13.7.5.7.2 Eligibility Ramifications—Restitution for Receipt of Improper Benefits

For violations of Bylaw 13.7.5.7 in which the value of the excessive meals is \$100 or less, the eligibility of the individual (i.e., prospective or enrolled student-athlete) shall not be affected conditioned upon the individual repaying the value of the benefit to a charity of his or her choice. The individual, however, shall remain ineligible from the time the institution has knowledge of the receipt of the impermissible benefit until the individual repays the benefit. Violations of this bylaw remain institutional violations per Constitution 2.8.1, and documentation of the individual's repayment shall be forwarded to the enforcement services staff with the institution's self-report of the violation. (*Adopted: 10/28/97, Revised: 11/1/00*)

13.7.5.8 Normal Retail Cost

If a boat, snowmobile, recreational vehicle or similar recreational equipment (including those provided by an institutional staff member or a representative of the institution's athletics interests) is used to entertain a prospect or the prospect's parents, legal guardian(s) and spouse, the normal retail cost of the use of such equipment shall be assessed against the \$30-per-day entertainment figure; further, if such normal retail cost exceeds the \$30-per-day entertainment allowance, such entertainment may not be provided. For violations of this bylaw in which the value of the offer or inducement is \$100 or less, the eligibility of the individual (i.e., prospective or enrolled student-athlete) shall not be affected conditioned upon the individual repaying the value of the benefit to a charity of his or her choice. The individual, however, shall remain ineligible from the time the institution has knowledge of the receipt of the impermissible benefit until the individual repays the benefit. Violations of this bylaw remain institutional violations per Constitution 2.8.1, and documentation of the individual's repayment shall be forwarded to the enforcement staff with the institution's self-report of the violation. (*Adopted: 1/10/92, Revised: 1/9/96 effective 8/1/96, 4/24/03 effective 8/1/03*)

13.7.6 Entertainment on Official Visit for Spouse, Parent or Legal Guardian of Prospect

A member institution shall limit entertainment, meals and lodging on the prospect's official visit to a prospect, the prospect's parents [or legal guardian(s)] and spouse. For violations of this bylaw 13.7.6 in which the value of the excessive entertainment, meals and lodging is \$100 or less, the eligibility of the individual (i.e., prospective or enrolled student-athlete) shall not be affected conditioned upon the individual repaying the value of the benefit to a charity of his or her choice. The individual, however, shall be ineligible from the time the institution has knowledge of the receipt of the impermissible benefit until the individual repays the benefit. Violations of this bylaw remain institutional violations per Constitution 2.8.1. Documentation of the individual's repayment shall be forwarded to the enforcement services staff. (*Adopted: 4/25/02 effective 8/1/02*)

13.7.7 Lodging for Additional Persons

Additional persons (e.g., prospect's brother, sister, friend) may stay in the same room as the prospect or parents, spouse or legal guardian(s) of the prospect, but the institution shall not pay the costs resulting from the additional occupants. The additional occupants shall not be prospects being recruited by the institution. For violations of this bylaw in which the value of the offer or inducement is \$100 or less, the eligibility of the individual (i.e., prospective or enrolled student-athlete) shall not be affected conditioned upon the individual repaying the value of the benefit to a charity of his or her choice. The individual, however, shall remain ineligible from the time the institution has knowledge of the receipt of the impermissible benefit until the individual repays the benefit. Violations of this bylaw remain institutional

violations per Constitution 2.8.1, and documentation of the individual's repayment shall be forwarded to the enforcement staff with the institution's self-report of the violation. (*Adopted: 1/10/92; Revised: 4/24/03 effective 8/1/03*)

13.9.1 Entertainment Restrictions

Entertainment of a high-school, college-preparatory school or two-year college coach or any other individual responsible for teaching or directing an activity in which a prospect is involved shall be confined to a member institution's campus and shall be limited to providing a maximum of two complimentary admissions (issued only through a pass list) to home intercollegiate athletics events, which must be issued on an individual-game basis. Such entertainment shall not include food and refreshments, room expenses, or the cost of transportation to and from the campus. It is not permissible to provide complimentary admissions to any postseason competition (e.g., NCAA championship, conference tournament, bowl game). An institutional coaching staff member is expressly prohibited from spending funds to entertain the prospect's coach on or off the member institution's campus. (*Revised: 4/3/02*)

13.11.4 Prospect's Visit

A member institution shall not publicize (or arrange for publicity of) a prospect's visit to the institution's campus. Further, a prospect may not participate in team activities that would make the public or media aware of the prospect's visit to the institution (e.g., running out of the tunnel with team, celebratory walks to or around the stadium/arena, on-field pregame celebrations). Violations of this bylaw do not affect a prospect's eligibility; however, the violation shall be considered an institutional violation per Constitution 2.8.1. (*Revised: 1/14/97, 9/12/03*)

Mr. STEARNS. I thank the gentleman.

I will be starting—opening with my questions. Mr. Berst, you heard Mr. Williams give his five-point program, and you heard Dr. Hoffman talk about what she intends to—she is putting in place here.

It seemed to me if both these individuals are talking about reform, why are you not way ahead of the curve? Why haven't you done something a long time ago?

Now, our colleague supported the NCAA and what you are doing. But it seems to me that there is some culpability on the NCAA because Mr. Williams, who has got a broad background on this, both as an athlete, as a professor of law, he has outlined five steps. And the people I have talked to who are not testifying today, people say that there is a need for huge reform.

And the question is, you said we tend to promote change, and we hope by the next fall to have in place these reforms. Why haven't you been leading the charge? Is it because of something that is preventing you from doing it? I guess the main question—don't you think what Mr. Williams said, those five points, are good, should be put in place? Just yes or no.

Mr. BERST. I have—it is a more complex answer than yes or no.

Mr. STEARNS. No, I know. But let us just take his first one. Let us get to best practices. Let us get to philosophy instead of talking about just general, you know, rules or procedures. Why not talk about what we are trying to do here. I think the No. 1 thing he said it seems like—that seems pretty important to me.

Mr. BERST. I agree entirely, depending on the area in which we are speaking.

Mr. STEARNS. Best practices depends upon an area?

Mr. BERST. Well, if I may explain—

Mr. STEARNS. Sure.

Mr. BERST. [continuing] In regard to violations of the typical NCAA rules that you may be aware of, and the enforcement pro-

gram that is employed in regard to those bylaws, I in fact would be proud of that system. In order to address a culture, however, you also need the support of the various institutions that make up your constituency in order to attack that program.

In regard to the issues that we are talking about, the behavior of institutional personnel, institutions have maintained autonomy, and they have basically said to us in the past—

Mr. STEARNS. So you are saying the university is responsible for taking care of it.

Mr. BERST. Not now I am not. I am saying that up to this point institutions have said to us that we can handle that. I think the recent revelations that have come about—and they far exceed issues in intercollegiate athletics—require attention to the cultural issues.

Mr. STEARNS. Okay.

Mr. BERST. And I believe it provides the opportunity for the NCAA—

Mr. STEARNS. Let me get to the cultural issues. Do you think if a student athlete violates the rules for drugs, alcohol, and sex, it should be one strike and you are out?

Mr. BERST. I am sorry. I am not sure where that came from. The—

Mr. STEARNS. In other words, the school would lose their recruit because of it. I mean, do you think that is too draconian?

Mr. BERST. No, that is an easy one. If a recruiting violation occurs, that individual is in fact ineligible within that—

Mr. STEARNS. As it stands now.

Mr. BERST. Yes.

Mr. STEARNS. Well, should the school lose something, too, because—not just the athlete, should the school—is the school now—something happens to the school?

Mr. BERST. Yes.

Mr. STEARNS. And what happens to the school?

Mr. BERST. It is left to a nine-member group of the Committee on Infractions, seven of which come from other schools, two of which are public members.

Mr. STEARNS. You heard Dr. Hoffman's presentation. Do you think that perhaps the standard that she is implementing should be the standards for all schools?

Mr. BERST. Those, in fact, will be part of the discussion of the task force and are included among our list of options.

Mr. STEARNS. Dr. Hoffman, has Colorado been sanctioned by the NCAA for violations since you took over?

Ms. HOFFMAN. On the basis of what happened to our previous coach, these were different kinds of violations. We are in the process of working through some violations that took place under our previous coach and under our previous president.

Mr. STEARNS. It was mentioned earlier that many schools have a compliance officer, a compliance coordinator. Before you instituted these things, did you have a compliance coordinator?

Ms. HOFFMAN. We have had a compliance coordinator for many years.

Mr. STEARNS. Okay. Mr. Williams, is there anything you would like to comment, based upon what Mr. Berst said?

Mr. WILLIAMS. Well, I think the NCAA has had rules, and I think that to a certain degree he is correct in the sense that the universities have tried to be sort of going their own way. But I still believe that if you look at the rules, the rules—and they are not David's fault. The rules basically have been designed in many cases to deal with something that just happened when there is a violation.

I will give you a good example. Everybody is up in arms about the young man who was on jet to I think Florida State it was. The fact of the matter is if you read the rules, there is nothing in the rules that says you can't use a jet. However, you can't take the kid in a helicopter.

And so I wouldn't be—you know, the way the rules have been in the past, you know, you wouldn't be surprised if what we will get now is, "Well, you can't use the jet." I still go back to the fact there should be philosophy. There needs to be best practices.

On the compliance piece, I would say one of the things—you know, any major university—and I am sure what President Hoffman does at Colorado is we have a lot of compliance issues at our university, and one of the questions I would always ask universities, is your compliance person in athletics totally separated from all of the compliance that goes on at a campus?

Our compliance officer reports to me as the General Counsel, not the Athletic Director. In many athletic departments we are asking the compliance officer to basically guard over actually who they work for—the athletic people.

Mr. STEARNS. My time has expired. Ms. Schakowsky.

Ms. SCHAKOWSKY. Thank you, Mr. Chairman. I want to make a few observations and then just leave it open for the panel to comment on. We heard earlier some testimony that, look, you know, there are rules in place, and we are going to get more rules in place. But you are always going to have people who cheat in a recruiting program.

And I am concerned that accountability for this culture that we have referred to over and over again is not directly addressed. And I want to use as an example the comments of Coach Barnett. I say using it as an example because I think it is not just a matter of an individual.

And I am going to quote what he said among the sentences. A declarative sentence—"Katie was a girl." This was an allegation of Katie—I don't have—Needa? Nida? Hnida. Who claims to have been raped. In defense of the program and himself and against the allegations, this was the statement of the coach. "Katie was a girl, and not only was she a girl, she was terrible."

"There is no other way to say it. She couldn't kick the ball through the uprights." He also said, "It was obvious that Katie was not very good. She was awful. You know what guys do; they respect your ability."

Now, what I hear from that—first of all, is this connection—Mr. McPherson, you were saying that the worst thing that could be said about a grade school or all the way—is that she throws like a girl, or she plays—he—he plays like a girl. Girl. Insult. I mean, to some this would be a non sequitur.

A girl accusing someone of rape and the response is, "Katie was a girl." Yes. And what does that imply? Well, it implies that you know what guys do. They respect your ability. This kind of guys will be guys.

Now, I represent Evanston, Illinois, and Gary Barnett was a hero to us in—at Northwestern. So I have a lot—I begin this with a lot of affection and respect for Gary Barnett. But if we are talking about culture, think of substituting the word "girl" for "black." Would we for a minute tolerate that person to go on paid administrative leave?

And I understand that we are talking about \$1.5 million here. We are talking about culture. Here is a person who embodies the culture of NCAA athletics, the ultimate of a football coach, and this is said. It seems to me that this is the kind of thing that we say no.

SMU, the only university where the so-called death penalty was ever instated, where their program was dismissed, it seems to me that something more than, well, okay, we are going to put him on leave and we are going to come up with some new rules, and we are going—if we are serious about culture, then we should be serious about this remark, which I think goes beyond everything, has crossed a line where if we are serious we have to say no, this person cannot lead. He has disqualified himself.

Again, I know I am focusing in on this one individual, but the words I think may encapsulate what I worry about in the culture. I am going to stop there. Anyone who wants—

Mr. MCPHERSON. If I may address the—from my earlier rant about the culture, and I think that this is a tremendously complex problem. There is the culture that you are talking about that is pervasive, that is the very way which wraps around athletics. That culture is a major, major part of athletics. It is a major, major part of our society in general.

I think there is the other issue of student athletes, and I think, again, that the NCAA has responded—as Mr. Williams has said, has responded to things that are happening in the aftermath. And so it is trying to—and also trying to manage a burgeoning business of athletics, is generating more and more money each year for the top programs.

Ms. SCHAKOWSKY. Let me get to the point, though. Is it sufficient when a remark like that is made to say that such an individual will be on unpaid leave? Does this cross a line to anyone on the panel?

Mr. MCPHERSON. I have—

Ms. SCHAKOWSKY. Let me ask Mr. Berst.

Mr. BERST. Well, I think we are not to the last chapter of those issues. And what the NCAA has done is used part of that as impetus to begin what we are doing. The issue related to women and degrading comments regarding women and worse is—is an issue that I think is broader than athletics. It was demonstrated possibly during that comment.

What the NCAA did is attempted to use that and other things that have occurred to start an effort to evaluate the competitiveness of the recruiting practices. Will we do anything—

Ms. SCHAKOWSKY. Well, I really want an answer about that, because it seems to me if such a remark is left to stand, and up to now just a slap on the wrist, then doesn't that say something about how aggressive we are going to be about addressing this issue of the culture of college athletics?

Mr. BERST. Well, some of that is with—outside my jurisdiction. My efforts are to evaluate the recruiting culture. There still remains, obviously, the University of Colorado's own evaluation of these issues, and, if necessary, matters that might relate to NCAA enforcement. But those are just not concluded.

Mr. MCPHERSON. May I just address that one thing about that remark? And the one thing that I—when I talk to coaches, and I talk to coaches at large schools and small, they are no different in many ways than some of the student athletes that they coach with regard to their attitudes and those kinds of remarks.

They use that kind of remark—those kind of remarks all the time on the field. "Let us go, ladies. Pick it up." That kind of language is pervasive in sports, and I think you are getting to—it is a much larger problem than just athletics. We don't hire these coaches for them to be good people or to raise good people. We don't hire them as educators. We hire them to win ball games. Period. And they are part of a larger culture that uses that kind of degrading of women to motivate men.

We also live in a culture that does not hold men accountable for their violence in many ways. And I hate to bring up an issue that kind of got way too much publicity, but we talked so much about Janet Jackson's breast, but we didn't talk about Justin Timberlake's hand ripping her shirt off. What Justin Timberlake did was an assault, and yet all we talked about was the obscenity of her breast. We didn't talk about the obscenity of the violence.

And I think that is part of the issue that there has to be a cultural shift in how we look at these issues, and not just blame the victims, but hold the perpetrators responsible. And it begins with the language that you are talking about.

Mr. STEARNS. The gentlelady's time has expired.

Mr. Terry.

Mr. TERRY. Thank you, Mr. Chairman. And first to Dr. Hoffman, as a Husker alumni, donor to the athletic program, season ticket holder, let me just first say that I think I speak on behalf of most Nebraskans and Nebraska football fans that we take no pleasure in what the University of Colorado's football program is undergoing right now.

In fact, the better Colorado is, the better the big 12 and better college sports. So as a college sports fan, it is disturbing to me. But there is a rivalry between Huskers and Colorado, and I just want you to know that we take no pleasure in this situation.

Ms. HOFFMAN. Thank you, Mr. Terry.

Mr. TERRY. With that, I am also—you have self-imposed some recruiting rules that when you lay those upon what Congressman Osborne mentioned, especially with student hosts, as absolutely an important part of the recruiting process because it is important that a prospective student athlete understands from the fellow peer, a student already enrolled, what the culture is like, are the

coaches really jerks, or are they really supportive. You know, those things are important.

And yet you are going to limit student hosts, their student contact, highly supervised, structured. You have lowered the time on campus from 48 hours to self-imposed 24 hours. It seems to me in a highly competitive recruiting atmosphere that you may be injuring the football and athletic program. How do you feel about whether or not you have reduced your athletic department's competitiveness?

Ms. HOFFMAN. Thank you, Mr. Terry. First of all, I think in the current environment that is not the appropriate thing we have to worry about right now. We really have to worry about the educational experience of our student athletes, and that is what we are going to focus on in our recruiting visits is preparation for the educational experience.

But we are actually very proud of our educational experience. Forty-two of the 43 football players who were seniors last year or this year have either—have already graduated or are on track to graduate this spring.

Mr. TERRY. Mr. Williams, what do you think? Do those type of self-imposed rules run the risk of reducing Colorado's competitiveness?

Mr. WILLIAMS. Well, I think that that goes right to the point about competitive advantage. I wouldn't be a bit surprised if—first off, I think President Hoffman is correct. I don't think that that should be the issue right now.

Mr. TERRY. I agree.

Mr. WILLIAMS. But I think that certainly I wouldn't be a bit surprised if a football coach or football program members would say, "We are going to be at a competitive disadvantage to what might be happening at the other 11 schools in the Big 12." But, you know, it is something that—and this is where I think the NCAA is going to have to come in, is they are going to have to sort of adopt rules that puts everybody back on an equal playing field. But, yes, I think there will be the cries of competitive disadvantage that could come out.

This is one of those times when I think the competitive advantage—and I would commend President Hoffman for basically taking that step that says, you know, the welfare of our student athletes, the welfare of our universities, are more important than the competitive advantage.

Mr. TERRY. All right. Mr. Williams, let me—I mentioned an article. I had mentioned that it was from The Tribune, but actually it is from The Pioneer Press. And this columnist said in response to the Minnesota recruit that was taken to a strip club, said, "My biggest question is, is this the standard procedure during recruiting visits? If so, it is no wonder the recruiting classes have improved. It used to be you got a pizza and a tour of the library."

Now, his question is my question. How pervasive is this recruiting culture throughout universities across the Nation? What is your perception, Mr. Williams?

Mr. WILLIAMS. Well, that is a hard—I mean, I would say that I am sure it has really gone beyond a pizza and a movie. I mean, I think that that is clear. Even at our school it has gone beyond

that. I was somewhat surprised, quite honestly, to find out that there were the number of schools that basically had taken—that the host had taken students—prospects to strip joints and places like that.

However, there is a lot of other things that go on. I mean, there is a great example of a Midwestern university where the recruit came on, and they turned him over to the student host. And I think turning him over to the student host was a problem. I actually do think that is a problem, and they ended up in the metropolitan area closest to the university, which was 45 miles away, which now is a violation of the NCAA.

On the way back from that to the campus they got in a car accident. The only way anybody ever knew about this was because of the car accident. Nobody at the university knew they were going there, and so the things that go on have enlarged and enlarged from the days when you had to stay right on campus for the trip.

So, yes, I guess while I was surprised by that, I guess I should say I shouldn't have been.

Mr. TERRY. Thank you. That ends my time.

Mr. STEARNS. Ms. DeGette.

Ms. DEGETTE. Thank you, Mr. Chairman.

Mr. McPHERSON and Mr. Williams, both of you talked about pressures that go on in institutions in terms of recruiting. The pressure because we have multimillion dollar Division I athletics programs, particularly football and basketball. And I am wondering if—if you wouldn't agree with me. I think, Mr. Williams, you said specifically that academic institutions that you have seen have actually used women hosts for the male teams. Is that right?

Mr. WILLIAMS. In many of the universities the hosts are female students.

Ms. DEGETTE. And have you seen that also, Mr. McPHERSON?

Mr. MCPHERSON. Yes. In fact, if you look in some of the year-books and programs for the media guide, they will actually have a picture of the hosts.

Ms. DEGETTE. Of the women hosts.

Mr. MCPHERSON. Yes.

Ms. DEGETTE. And I assume they are——

Mr. MCPHERSON. Yes.

Ms. DEGETTE. [continuing] attractive women for the most part.

Mr. MCPHERSON. I haven't looked closely at the photographs, but I would assume——

Ms. DEGETTE. That would just be my hunch.

Mr. MCPHERSON. Yes.

Ms. DEGETTE. Now, those women hosts are there for the purpose of making the college seem attractive to male athletes, which feeds into a lot of what you are talking about—gender issues, correct——

Mr. MCPHERSON. Yes.

Ms. DEGETTE. —Mr. McPHERSON?

Mr. MCPHERSON. Yes.

Ms. DEGETTE. Would you say this is a widespread practice around the country—either one of you—using female hosts?

Mr. MCPHERSON. Yes.

Ms. DEGETTE. Are you aware—are off-campus parties with these women hosts also a common occurrence?

Mr. WILLIAMS. At our university they are not. It is restricted.

Ms. DEGETTE. I understand. But are you aware of around the country—

Mr. WILLIAMS. There are campuses that I am aware of where the women hosts are part of off-campus parties.

Ms. DEGETTE. Now, if someone like President Hoffman instituted some very strict rules that eliminated these female hosts, that eliminated student hosts, that put all of these other restrictions in place, and they did that in a vacuum, would that put them at a competitive disadvantage in recruiting students under the current atmosphere that is out there of recruiting?

Mr. MCPHERSON. Yes.

Ms. DEGETTE. And why would that be, Mr. McPherson?

Mr. MCPHERSON. Because the reality is that student athletes—and, again, we are talking about football and basketball primarily, and in this case obviously football—are not coming to a visit to go to the library.

Ms. DEGETTE. Right. I mean, we are being realistic about—

Mr. MCPHERSON. Be realistic. They are coming to the campus to find out whether or not this is where they want to spend the next 4 years. And if they are being chaperoned around campus, they are not going to get the experience that you want them to get. You want them to go off with another member of the team or to get a feel for what the social life is like on campus, what life is like on that campus. That is part of—

Ms. DEGETTE. But—okay.

Mr. MCPHERSON. But here is part of the problem, though. You are asking 19 year-old students to take 18 year-old students around the college campus.

Ms. DEGETTE. Right. And without supervision.

Mr. MCPHERSON. Yes. But you know what? That is part of being an adult. That is part of being—

Ms. DEGETTE. Well, I understand. I understand. But also, you need to do it in a way that they don't take them around campus to a striptease party and underage drinking and sexual assault. You would agree with that, too, I am sure.

Mr. MCPHERSON. I absolutely agree with that.

Ms. DEGETTE. Okay.

Mr. MCPHERSON. However—

Ms. DEGETTE. Let me—I am sorry. I have a very limited amount of time.

Mr. MCPHERSON. That is okay.

Ms. DEGETTE. Mr. Berst, I wanted to ask you about something, given these comments. You said in your testimony individual institutions have retained discretion over recruiting practices, and you imply—and I think maybe rightly so, that the NCAA cannot let—just like we can't legislate morality in Congress, you can't legislate every single student behavior.

But yet, when I look at your NCAA bylaws, there are all kinds of really specific restrictions in the bylaws. We heard you can't take rides in helicopters. You can't purchase game tickets, except for under certain circumstances. You can't—there are restrictions on automobile transportation.

It looks to me in looking at all of these rules—and I think one of the other witnesses alluded to it—all of these rules sort of get enacted ex post facto when something bad happens. Someone was flying in a helicopter. Okay. Let us have a law against that.

But I find it interesting that you are saying, but we really can't legislate around off-campus parties with female hostesses that involve underage drinking. I think that that is exactly what President Hoffman is trying to get at, whether or not you think her rules are restrictive or not. And I am just wondering why the NCAA can't institute some rules that would prevent this specific type of activity that seems to be happening. And by the way, it is not just over the last 3 months, it is over the last number of years.

Why can't you do some rules that would stop that specific kind of activity from happening, so that Dr. Hoffman's players are on a level playing field in terms of recruiting practices with every other college and university in the country. And most importantly, so our student athletes are protected, and so the women students at these institutions are protected.

Mr. BERST. That is precisely our charge. The rules that you have in place have been built through that competitiveness of coaches trying to think of one more thing they could do that is within the rules that someone else hasn't thought of yet. So you have sort of a building of rules that are very specific.

You are right. The current rules don't talk about very specifically the behaviors and the accountability for those behaviors. But those certainly can be adopted. You can have strict liability.

Ms. DEGETTE. And let me—

Mr. BERST. You can have—there are lots of ways to do it.

Ms. DEGETTE. Let me ask you, is that exactly the type of practices and rules that this committee is looking at that is going to be coming out with recommendations next month?

Mr. BERST. That is the hope. Thank you very much.

Ms. DEGETTE. I look forward to seeing those recommendations, Mr. Chairman, and I might suggest a further hearing after those proposed rules are issued.

Mr. STEARNS. I think it is a very good suggestion, yes. And I thank the gentlelady.

Ms. Bono.

Ms. BONO. Thank you, Mr. Chairman. I want to thank our panelists for being here today, and I have been listening for quite some time. And I don't know if we have made any progress in this hearing, to tell you the truth, or not. But as Mr. Berst talked about, we are not—talked about a lot of cultural issues. And you talked about Janet Jackson, and that was, unfortunately, an incident where that Superbowl is more known for the indecency than who won.

But also, we have to talk about our culture and sports. And yesterday we saw a hockey player have his neck broken, which to me was the most outrageous and deplorable act I think I have seen in professional sports. And that all leads to the culture that I believe starts in college, and I think the outrage for what is happening in Colorado is certainly vast.

I am a product of USC. I went—I dreamed of going to USC my entire life. My dad was on the faculty. He was a professor of medi-

cine. My two brothers went to USC. By the time I got to USC guess what happened. We were on probation. We were sanctioned. No Bowl games, no televised games, and I have got to tell you what that does to the morale of students who dream their whole life of attending the university. And you get there and the excitement is not there.

And I am curious to, Dr. Hoffman, what an NCAA sanction does in the long-term effect to university. It has to have lingering effects. I am sure the alumni are not as willing or as happy to contribute to the university any longer. Can you speak a little bit about what happens after a sanction to a university?

Ms. HOFFMAN. Well, first of all, let me say that the sanction that we are under was, by NCAA standards, extremely mild and had to do with some practices by our previous coach that were in the range of spending a little bit of extra time with recruits, for example. So the particular sanctions that we are under right now have not had any perceptible impact on the culture at the school.

As I said, the recruiting rules we put into place I think are absolutely essential. And my hope is that we continue to have competitive sports, but we have them in an atmosphere in which the education of our students is the most important thing.

Ms. BONO. I am sorry. Can you repeat it, though? I tuned out a little bit. When you said there are no perceptible results, or what did you say?

Ms. HOFFMAN. Well, the particular sanctions that we have been working through were, by NCAA standards, relatively mild. They had to do with voluntarily giving up a couple of scholarships, and it had to do with infractions by our previous coach that were of the realm of spending a little bit too much time with specific recruits.

They were not in the realm of what USC experienced or that SMU experienced. So I can't really speak to their having that kind of impact.

Ms. BONO. Well, I don't know if that is good or bad in your case, but I think it is very unfortunate that the entire student population does suffer. And I do believe they do, whether or not you think it is harsh or not. You know, maybe it needs to be harsher. Obviously that is what we are talking about today.

But, Mr. Berst, can you talk about—is this sort of a wink and a nod for the NCAA? Or can you talk about how you go about investigating and how many people are on your staff who look into violations?

Mr. BERST. Well, if you are talking about the enforcement program, actually—and we are increasing by 50 percent the resources for that particular group. I am quite proud of the efforts of the enforcement staff to investigate major and secondary violations. And there is a voluntary program that a voluntary association has that actually does investigate, has teeth, imposes penalties, along the lines of what you are talking about.

Those penalties are fashioned to take away the competitive advantage that is measured in the violations. So that is a very serious effort. What I am doing is taking advantage of an opportunity where we are not necessarily talking about violations; we are talking about other reprehensible behavior that has created the oppor-

tunity within the NCAA—and I mean it is broad-based as well—to reevaluate the recruiting practices and the recruiting visits.

That may be a small step, but it seems to me that that is a perfect place to begin, since we understand what it is. And we at the same time can address the kinds of issues that we would refer to more as cultural.

Ms. BONO. Thank you, Mr. Chairman. My time has expired.

Mr. STEARNS. I thank the gentlelady.

Ms. McCarthy.

Ms. MCCARTHY. Thank you, Mr. Chairman. And thank you to the panelists today for your sharing.

Of all the things that have been said, one thing has struck me as really at the core of what we need to be about for these young people, and that was the issues raised by the panelists about how to change the culture of NCAA and recruiting, and how to change the culture of the university. Because these are not the same entity, but they are caught up in I think the same need.

And, really, Mr. Berst, your remarks at the end of your testimony were very, very prescient and important. You brought out the fact that to do these things may indeed change the competitive risk of a university if a school like Dr. Hoffman heads goes it alone.

So I wonder if each of you panelists would reflect on that question, because it seems to me it is the culture, both of the NCAA and the rules. You have shared with us some of the ideas the task force will consider, how that will play out in the culture of NCAA. And yet what will it mean to the culture of the university if you eliminate all off-campus entertainment for a recruit, or eliminate all off-campus entertainment that is not supervised by an institutional staff member?

You know, that wink and nod that my colleague from California raised does concern me as well. It is cultural, and it is bigger than any one institution. But as institutions that have oversight and some control over these individuals for a number of years, what is it in that bigger picture that you think really needs to change that can be changed?

Mr. BERST. Just in regard to the rules, I think it is the responsibility of the NCAA to help set a national floor. Institutions then can impose more restrictions in any particular area. And I would think that the exercise that we are going through with regard to official visits should at least help moderate those risks that Colorado may be taking by doing something different than some other institutions.

But it is interesting that we suffer—we all suffer from the notion that in the competitive world of intercollegiate athletics you really do have to do everything everybody else does, and that is unfortunate because that is not thinking about how to address an official visit.

Why wouldn't we start from the notion that a parent or guardian entrusts the child to the administration, the institution, and the coaches for a weekend, and be confident that they are going to return intact physically and emotionally, and that they are going to learn something about the academic, social, and athletic environment at the institution.

It seems to me that is a reasonable starting place to begin to think about this. And along the way I hope that we are able to moderate behaviors and think differently than just through the competitive lenses of coaches who are in competition with each other.

Ms. MCCARTHY. Anyone else?

Mr. WILLIAMS. You know, I think that the—I fear that what is starting to happen or what has happened on our campuses, when you think of the culture of athletics, is that we might be looking at some of the wrong indicators. And let me give you an example.

At Vanderbilt, we have a very, very good graduation rate for our student athletes. It generally is as high or close to as high as the regular student body. We are proud of the fact that we are one of the few universities where in the last 3 or 4 years we have actually had a football team that graduated at 100 percent. Now, we haven't had a winning season in a few years, and that is a different story.

But the fact of the matter is what we decided to do was look behind the graduation rate and look to see that even with this graduation rate were the student athletes who graduated actually getting the same sort of education, total education, as the non-student athletes.

And we found out that that just was not the case, that even though we are graduating them we probably are not—because of what has happened in this athletic world, these young people are not able to have the same sort of experience as other students. And one of the real interesting things about that is we went around, and one of the things that happens for people who graduate from Vanderbilt is a great portion of them—there is three things that we found out.

A great portion of them do community service. A great portion of them study abroad at some point in time. And a great portion of them go on to graduate and professional school. So we looked at that, and our student athletes did do some community service, but basically team-based. The football team would go over to Children's Hospital, but only the football team. They won't do that with other students.

We also found that almost none of our student athletes—almost none of our student athletes over the last 3 or 4 years had had the opportunity to study abroad.

And we also found out that when we talked to admissions directors at graduate and professional schools, what they said is, "When we get the applications for these kids, your student athletes, if all they have done is go to class and play a sport, and, in fact, spend summer school—I mean, spend the summer in summer school, they are not coming to us with study abroad experience, with internships, those sort of things."

And so I think that that is the culture—that we have developed athletics because of the big business, and the competitiveness. We have segregated out a group of kids.

Now, people will say, "Well, no. We have gotten rid of academic dorms, and they live with the kids." But if they can manipulate the system, they will live in the dorm with other kids, but they will live with student athletes. They eat separate. Our academic sup-

ports are generally separate, you know, and so they do live a separate life. That is the culture I think we have to break down.

Mr. STEARNS. The gentlelady's—

Ms. MCCARTHY. Thank you, Mr. Chairman.

Mr. STEARNS. The gentlelady's time has expired.

Mr. Towns.

Mr. TOWNS. No. 1, that if you have a coach—and, Mr. McPherson, I want you to take a shot at this first, because, after all, I am a graduate of Adelphi, so I would like for you to answer first, and then I will move down the line.

If you have a coach that is involved in violations, then, of course, the administration makes the decision to terminate his contract. He leaves and goes and gets a bigger job. He leaves the university with all of the problems, the mess that he has created, and, of course, they might be sanctioned. All kinds of things can happen, you know, but this coach goes and gets another job and does just fine.

The problem is now for the university, for these kids that have been recruited. And there seems to be no way to deal with that. And I don't see how you can straighten a lot of this stuff out or to—if you don't have a way of holding the coach accountable for what occurs. How do we deal with that?

Mr. MCPHERSON. I think that is just another indication that the coaches are involved in high business as well. And I think the message that is sent to the student athlete is that the coach is going to get his, I have to get mine, so to speak. And I think how you deal with that is by—well, let me change the statement.

I don't know how you deal with that, and I think that, again, that the business of intercollegiate athletics has to be reigned in, so that we are holding coaches more accountable, that they are part of more—a part of the campus life.

In other words, they are there as educators, not as coaches to win ball games. And so that we are holding them to the standard of graduation rates. We are holding them to the standard of how well they integrate student athletes into campus—the campus community and the greater community.

I think those have to be the types of quality experiences that coaches are more a part of, as Mr. Williams is saying, that enhance the experience for student athletes. Granted, the student athletes, just by virtue of being involved in intercollegiate athletics, get a tremendous experience, but they are missing out on all of those other things. And by integrating the coach into those other things as well, I think you will start to see coaches who are more invested in the educational process.

Mr. TOWNS. Okay. I hear you. I hear you. Mr. Williams.

Mr. WILLIAMS. Yes. I actually think that there are some—I mean, the penalties now—if the violation is strong enough, the penalties travel with the coach. So if the coach—if there is a—if President Hoffman has a coach that gets major violations while at Colorado, if Vanderbilt—if we choose to hire him, some of those things follow that coach.

So there has been some things put into place to basically deal with that. But I would suggest to you, once again, I think that one of the things that we have lost sight of, or at least I feel we have,

is actually who is this about. And I—you know, I keep going back, this should be about the kids.

But there are some rules that we have that really baffle me, and I will give you an example of one. We have these signing periods where kids sign, and once they sign they are committed to our schools.

Mr. TOWNS. Right.

Mr. WILLIAMS. And if, in fact, they decide to go somewhere else, or if they come to our school and it is not a right fit, and they go somewhere else, they have to sit out a year. Okay.

Coaches can leave on Friday and be coaching on Monday at another school. Even breaking a contract, they don't sit out any time. So, I mean, when you think about it, who are we really protecting here—the coaches or the kids?

Mr. TOWNS. Dr. Hoffman.

Ms. HOFFMAN. Well, could you ask me what question you would like me to answer? I am sorry, Mr. Towns.

Mr. TOWNS. Yes. I guess more in terms of my concern is the fact that coaches, you know, are not—well, Williams is saying now they have changed that to a degree. But I know—I can name coaches that I know that have been involved in violations at a university and moved to another university, and that school has all the penalties.

And, of course, he created the mess. And I think you even talked about the situation in Colorado that—wherein that the coach who created the problems then moved on to another school, but you had the problems. So I am saying to you that it seems to me that we have to hold coaches more accountable, because if they violate the rules and then move on, you know, without being penalized in some kind of way.

However, Mr. Williams is saying now that that has changed to a degree, and I think the degree he said—because I know of situations wherein coaches have sort of had problems in one school, and they would go get a job at another one.

Ms. HOFFMAN. Well, let me speak to—that particular coach did go on to another institution. That institution was also sanctioned, and that coach is no longer coaching college ball.

Mr. TOWNS. Let me raise—another piece of that would be—and I guess Mr. Williams, which I really, you know, had some problems with the answer, is that a lot of times these things come out after the person has gone to another school. How do you deal with that?

For instance, if I am at one school, and then, of course, I do things, and then I move on, but what happened will come out after I am gone and I have got a contract with another university. That is the issue. I mean, so I guess, Mr. Berst, let me go to you on this, because my time is running.

Mr. BERST. Thank you. Actually, I am the author of the procedures that you are talking about. And you are right that the—particularly basketball coaches were very concerned about what you are talking about. There are ways to handle both of those situations.

The coach does have sanctions that follow him, and the way that it occurs is that the original institution is asked to show cause why they should not be penalized further, or the second institution re-

ceives the same notice if they do not impose certain penalties on the coach.

If the coach has already left—and I say this because the member of the association is the institution, so we have to deal with the institutions first. But if he has already left and there is a serious allegation involving an individual at another institution, we notify the second institution, provide notice and opportunities to appear and be heard and participate in the proceedings.

But if findings are made, then, yes, the coach at the second institution still would receive penalties. Student athletes, in fact, are permitted to leave an institution that is under penalty if they are going to miss opportunities to participate in post-season play. So there is some relief there. It is not perfect, but it does provide for some relief as well.

Mr. TOWNS. Will there be another round, Mr. Chairman? Thank you.

Mr. STEARNS. We are just going to—I thank the gentleman. We are going to take quickly—for another quick round. There is just three of us left, and sort of a wrap up, so if you will be patient with us.

When you look, Mr. Berst, at the Division III athletes, they seem to be relatively free of problems. Isn't that true?

Mr. BERST. No, it is not.

Mr. STEARNS. It is not.

Mr. BERST. No. I would say to you that the competitive environment in Division III, which actually is my home, is just as intense. The money is not there, but the intensity is. And you will see arguments about whether financial aid is improperly provided student athletes.

Mr. STEARNS. But do you see these kind of violations that we see here?

Mr. BERST. You see——

Mr. STEARNS. Are they——

Mr. BERST. No. I am sorry. You do not see——

Mr. STEARNS. So Division III doesn't have——

Mr. BERST. [continuing] the same violations.

Mr. STEARNS. I mean, the infractions they have are quite a bit different than these, aren't they? They are very minor?

Mr. BERST. I agree, yes.

Mr. STEARNS. Okay. And is that because there is no scholarships, do you think?

Mr. BERST. No. I——

Mr. STEARNS. Then why do you think Division III—is Division III a possible model?

Mr. BERST. As long as you have competitive people, you are going to have about 10 percent of the programs involved in alleged violations, whether they look like the kind we are talking about in I-A, or whether they are the kind that you are talking about in Division III, you are going to have about the same number of——

Mr. STEARNS. What Division III infractions are you talking about, that you say that they—when I asked you—I had the impression—at least staff and I had the impression that Division III did not have any serious problem. But you are saying they do have infractions? Can you give me an example what they are?

Mr. BERST. It would be charges that they are providing aid based on athletic ability rather than simply through the normal processes that any student would go through.

Mr. STEARNS. Let me just ask sort of a basic question. You come off, you know, not knowing a lot about this, and you say to yourself, "Should the NCAA even allow recruiting of student athletes?" Why not make them apply first, and then try out once they get to school, like they do in high school. I mean, is that a concept that is just not workable?

Mr. BERST. Well, I think any concept is feasible. You would get arguments mostly from all of the schools that think everybody would pick Duke. All of the other schools would say, "Now wait a minute. I need some opportunity to persuade them to come to my school."

Mr. STEARNS. Competitive—comparative advantage, so to speak. And that is what keeps pushing the envelope here.

Mr. BERST. I think that is right.

Mr. STEARNS. You know, in the last couple minutes I have, I am trying to come up with what a solution might be, and I went through the oversight hearings on Enron and ImClone and questioned all of those. And one of the things that came out of that was that the CEO had to sign the P&L statement and be personally responsible.

I think ultimately the NCAA can do all of these rules, and you can—Mr. Williams, you can have these five points you talked about. But I think the president of the university ultimately must bear the responsibility for the conduct and the culture that is at that university.

And I would say, if that is true, if you folks agree with me that the president ultimately, no matter what rules or reforms you do, if the president doesn't get down and talk to the compliance coordinator, and doesn't get out of the office and actually talk to these folks and keep track and stand up to the alumni association, you are going to have problems like this.

So what would be the feasibility of something like having the president of a university sign a document that he or she would put her name on, like the CEO has to put on a P&L statement, that would sign that, "We will follow these particular rules." Now, Mr. Berst, right now the president of a university just is advised these are the NCAA rules, right?

Mr. BERST. Yes. Reasonably, yes.

Mr. STEARNS. Okay. But they don't have to sign their name or anything, do they?

Mr. BERST. Well, there is a form that is signed, but I don't think it goes as far as you are talking about. But I think what you are suggesting is a possibility, and, in fact, is consistent with what we are hearing from men's basketball coaches right now.

They are asking us to evaluate a strict liability for the head coach to be responsible for the acts of any of their coaches. And that is a dramatic step, but it is very similar.

Mr. STEARNS. Well, trying to bring some accountability instead of just talking wishy-washy, you know, suggestions. Let us bring in some real accountability, and maybe we will see some change.

I mean, Mr. Williams, what do you think of that idea?

Mr. WILLIAMS. I think it is a good idea. In fact, you know, as the general counsel at the university, there are a number of times when our president—our chancellor has to fix his signature to something. And if the document comes there, it comes up to me to advise him, and what I am going to make sure before he signs it is that he knows what he is signing, and that we have complied with it.

So, you know, I don't think that is as far-fetched as you might think, because out of the Knight Commission, and even the NCAA, it now states that institutional control is really—the president has to be in control.

Mr. STEARNS. Right.

Mr. WILLIAMS. The CEO of the university. I would submit to you, as I said before, I am not sure that that is happening all—at every place. And I think that is where we really have to get after it. I mean, I think the strict liability of a head basketball coach for the assistant coaches is good, but we are missing something—the liability of that basketball program, of that athletic department, rests in the CEO of the university's office.

Mr. STEARNS. Yes. Dr. Hoffman, what do you think of that idea? I mean, you can shoot it down or not.

Ms. HOFFMAN. I think that is exactly what we have done. I think—

Mr. STEARNS. So you are going to sign a document saying that you are going to comply, and you are going to bring full accountability, and the buck stops here.

Ms. HOFFMAN. Well, I think we have already shown that that is what we have done with the processes we have put in place to try to get to the truth. And the new recruiting rules that the chancellor and I put in place, I think that we have taken control and brought about accountability at the CEO level.

Mr. STEARNS. Mr. McPherson, what do you think of the idea? And then I will ask Mr. Berst.

Mr. MCPHERSON. I think we are trying to fit a square peg into a round hole.

Mr. STEARNS. Okay.

Mr. MCPHERSON. Higher education is supposed to be this altruistic environment where young people go to learn and to grow and to develop, to be productive members of society. And what we are talking about is trying to manage this business where young people know the rules.

They are not coming to—the student athletes that we are talking about, the people like Maurice Clarett who never had any intention on being a student athlete at Ohio State, it was just a way to get to the next level, and that is the attitude that many of these student athletes are coming to campus.

And so I—with all due respect, I don't think there is much that Dr. Hoffman can do for those young men who come to our campus who only see it as a conduit to the NFL. And they will play the game, they will play the rule, but they are not interested in what is going on on the academic side of campus, they are not interested in adhering to all the rules that—of the institution, because their interest is making it to the next level.

Mr. STEARNS. Mr. Berst, and I will just close. Go ahead.

Mr. BERST. The concept is one that I think certainly instills responsibility at the highest level. The interesting question to me is whether the student host who decides to take a prospect to a strip club would avoid doing that knowing that the president might lose his or her job.

And it is an interesting question. It is certainly a possibility, but—

Ms. DEGETTE. But I bet you they would avoid going to the strip club if they knew if they got caught they wouldn't be getting a scholarship and going to the educational institution. Wouldn't that be fair to say, Mr. Berst?

Mr. BERST. I would sure hope so, yes.

Mr. STEARNS. All right. My time has expired.

Ms. DeGette.

Ms. DEGETTE. Thank you, Mr. Chairman.

Mr. McPherson, something you said earlier really got me to thinking. And what that was was that you were concerned if—if individual colleges or universities or anyone adopted a rule saying no student hosts, because part of the whole experience of getting to know an institution is getting to know the other students and athletes that they will be on the team with. Would that be a fair characterization of your—

Mr. MCPHERSON. Absolutely.

Ms. DEGETTE. And I think that that is a really good point as I sit up here and think about it. But my question to you is: if you are going to retain the concept of student hosts, I would assume you would retain the concept of hosts, not hostesses, since the hosts—

Mr. MCPHERSON. Yes.

Ms. DEGETTE. [continuing] are the fellow athletes, correct?

Mr. MCPHERSON. Right.

Ms. DEGETTE. But then, what do you do—what can an institution or even the NCAA do in its rules to make sure that that student host who is hosting the prospective athlete, the recruit, does not engage in inappropriate behavior?

I mean, because what is happening right now—and it is not just at the University of Colorado, it is all over the country. And I think what is happening from folks I have talked to is that once one program starts having strip parties and underage drinking, then everybody else hustles to do it because of the competitive issues.

So what kind of rules can you put into place to stop those student hosts from engaging in those kinds of inappropriate activities?

Mr. MCPHERSON. You would have to change the entire social culture of college campuses.

Ms. DEGETTE. Well, I can't do that between now and—

Mr. MCPHERSON. Exactly.

Ms. DEGETTE. I mean, that is—

Mr. MCPHERSON. And I think that is part of the problem.

Ms. DEGETTE. [continuing] a real issue. I don't think you can just say, well, you would have to change the whole culture. I think we are dealing with such a critical problem, we have got to put some kind of rules in place.

Mr. MCPHERSON. But let me explain to you what is so critically important here is that you cannot legislate the behavior of stu-

dents. And you can't tell students that they can't party the way they are going to party. These parties are going on.

When I was recruited to Syracuse University, I went out to a bar and within about 5 minutes I wanted to go home because I wasn't into that bar. I wasn't into that bar scene. And I went back to the apartment of the student athlete who I was staying with. It was 3 years later or 4 years later that I was on campus that I went to my first fraternity party. I was amazed. You don't have to go to a strip club to—

Ms. DEGETTE. Well—

Mr. MCPHERSON. [continuing] see the behavior that is going on on campus in general.

Ms. DEGETTE. You know, I—

Mr. MCPHERSON. And so I—but here is the important point. I think there needs to be education about what it means to be a responsible adult. And that includes student athletes and non-student athletes, and it is the entire culture. I don't think that this environment—and I am—I think that there are—are there parties going on? Are there sex parties going on? Absolutely. Are there strippers being paid for? I—

Ms. DEGETTE. But here is the difference. Okay? What we are talking about are not college students at fraternity parties. We are talking about high school age recruits who are on campus for a discrete amount of time being recruited for programs.

And with all due respect, I agree with everything you have said today, except for right up to now. I think we have to find some ways—I mean, the NCAA already has an extensive list of rules, some of which are meaningless but some seem important, on how you conduct these recruitment weekends.

And I would really urge you to think—and all of us to work together to think about some sensible standards we can put in place to stop this, because we are not talking about fraternity members who are 20, 21 years old going to a party. That is a different issue and one that I think we have to address. We are talking about high school age recruits. So that is—

Mr. MCPHERSON. And let me just make this point—that of all the difficult transitions for a high school student to go into college, academically very difficult to have the discipline to study on your own with no one looking over your shoulder and all of the reading that is necessary.

One of the most difficult challenges for a high school student making the transition is socially. With the amount of alcohol that is accessible, with the amount of freedom, it is managing that freedom that is the first and most important lesson a student has to make in making the transition, because with that freedom comes a tremendous amount of responsibility. And the recruiting process is the first opportunity that they begin to learn that lesson.

Ms. DEGETTE. Well—

Mr. MCPHERSON. And they need to learn that lesson from students who are currently on campus.

Ms. DEGETTE. Mr. Berst, I have a different question. You can answer—

Mr. BERST. I would love to answer that one.

Ms. DEGETTE. You can answer that one, too, but let me ask you the other question, which is, how many—I mean, we know, for example, that only one school has gotten the so-called death penalty saying they couldn't field a team for a specific period of time.

I am wondering if you can tell me how many enforcement actions the NCAA has taken against schools, say, in the last 3 years for violations of this matter, and if enforcement is part of what your panel is considering in formulating these new laws.

Mr. BERST. You said "this matter." Do you mean the nature of these allegations?

Ms. DEGETTE. Right.

Mr. BERST. I don't know that I can give you facts on which cases involved—

Ms. DEGETTE. Okay. How many enforcement actions have they taken on any subject in the last 3 years?

Mr. BERST. Well, Mr. Williams used the 60 major cases that involve—two-thirds of which involved improper inducements, which was usually money or like items, or extra benefits which would be the same. Probably the other third would be academic fraud issues for the most part and major—the last 60 major cases.

Some of those also would involve improper entertainment or excessive entertainment in a variety of ways, but probably very isolated along the lines of the issues that we are talking about.

Will our panel look at enforcement? No. I believe that enforcement is doing what it needs to do to attempt to enforce the rules in place. We are looking for a way to add sense to the recruiting visit experience and to hold institutions accountable.

On your other question, if I may, I think you can look at it from a risk analysis. And you have to establish what the expectations are. You have to make it clear what the expectations are, and you have to have penalties for not following through with those expectations, whether they are rules or just policies, and redundant education about what those expectations are.

Ms. DEGETTE. And you also have to have enforcement by the NCAA on the institutions, correct?

Mr. BERST. Absolutely.

Ms. DEGETTE. Thank you.

Mr. STEARNS. The gentlelady's time has expired.

The gentleman from New York.

Mr. TOWNS. Thank you very much, Mr. Chairman. There is a lot of problems here, you know, as I see it. No. 1, that if you have coaches that are making 3 and 4 times the money that the athletic director is making, and the chancellor or president, you know, and they just—a way of sort of gaining power in a major kind of way.

And I will just sort of give a specific example. When we were doing the legislation for the Student Athlete's Right to Know, the problem was that the coaches said to the chancellor, to the academic advisor, do not send out the information. The coaches had the power—and in some instances they would say, "Well, our coaches do not want us to cooperate." I mean, they have the power.

And so as long as you have a coach making 3 and 4 times the money that the chancellor and the athletic director is making, you know, how do you bring this back under control? I mean, because in many instances I have observed that they are not even paid the

way regular staff people are paid or regular professors are paid or regular folks on staff are paid.

They are paid from another pool of money. It had nothing to do with the university per se. I mean, this is what I was told when we were doing the research on it and the legislation. Is this true?

Mr. BERST. Actually, what you are talking about I think is part of what the Knight Commission is interested in as well, as well as the Division I Board of Directors. The shift, if I might, I think is that presidents clearly are in control. During the years that you are talking about, I do think the coaches had more ability to establish policy than probably the presidents did.

And I think the presidents really have established control within the NCAA. But the financial issues are serious concern I think to all presidents within the NCAA. And we have tried to begin by developing a data base to understand what those forces are and where the money is spent and how much there is and how the salaries operate, what the market forces are, in order to at least begin to make some more intelligent decisions if you will about issues that relate to athletics.

That is a continuing issue. I don't think there is a short order fix to that, but I think that you have identified a clear issue.

Mr. TOWNS. Dr. Hoffman? Thank you.

Ms. HOFFMAN. Well, Mr. Towns, I think I have demonstrated that I have control over the coach.

Mr. TOWNS. Even though they make 3 or 4 times the money? You think—

Ms. HOFFMAN. I have medical doctors who make almost as much as the coach does. It has nothing to do with how much money he makes. It has to do with who is in control, and I think I have demonstrated that I am in control.

Mr. TOWNS. Mr. Williams?

Mr. WILLIAMS. I would agree with President Hoffman. I was about to make the same point. That if you look at the 1990's, at universities, certainly those that have medical complexes, the coach is not going to be the highest paid. And it really has to do with who has control of the university and the rules and procedures.

And I would say that some of that power that goes to coaches that you mentioned really can be taken away by moving things away. I mean, it is—you don't have your compliance officer report to the athletic director and the coaches. You take your academic support and put it over in academic affairs where it belongs, those sort of things, so you don't have any compromise.

I mean, you have your admissions. Your last line of admissions is the Provost's Office—the Provost of the university. So there is ways to basically say you can make that million and two million and make more than just about anybody else on the campus. But the fact of the matter is you still have to follow basic rules and procedures, and there is control on this institution.

I would say that, as Dave said, that I think the NCAA—the presidents have taken control of that, but I would say where the problem is on some individual campuses. And I commend President Hoffman, because she has said, "I am in control here, and this is what is going to happen here." More presidents need to do that.

Mr. TOWNS. All right. Mr. McPherson, another question for you. You know, you talked about the transition program that the NBA has, and, of course, how much would it cost to institute—actually to institute such a program generally? How much do you think it would cost to do that on a college level?

Mr. MCPHERSON. Oh, it would cost significantly more than what the NBA or the NFL do, because the NFL and the NBA are only dealing with about 60, 70 players in the NBA, 300 players in the NFL. So it is a—would be a much greater cost, because you are talking about all of the Division I-A schools and football and basketball that participate, and all of the student athletes that they are recruiting each year.

So there would be significant costs to doing so, but you could do it conference by conference. You could do it school by school, that schools could create some sort of program. And some of them do. Some of them bring student athletes onto campus prior to their freshman year to enroll them in classes, to get them acclimated.

But they don't do that in every case, and they don't do it for the entire student athlete population, which is necessary to integrate these folks into—onto campus, especially with everything that we have heard earlier, that they are not generally on a daily basis integrated and have the opportunities to be involved in other things that are going on on campus.

Mr. TOWNS. You know, you all—actually, your school has a counseling program—in other words, works with athletes in terms of tutoring, and all of that. Mr. Williams?

Mr. WILLIAMS. Yes. We have an academic support program which we found that as we move down the road that more resources and more people need to be involved in that. And I think as Diana said, you know, part of it for a long time I think we—we looked purely at the academic piece. And, you know, some schools—what I call keeping the kids eligible.

What we have found is there is as much need to deal with the social transition, in particular for student athletes, even more so than the non-student athletes, because of the time allotments and the fact that they have been involved in an endeavor that has taken so much of their time and energy.

So we have tried to expand our—I don't even like to call it academic counsel and academic support. It involves all sorts of things. I will give you a very interesting thing. One of the things that we find that is so new to us now—I had lunch with one of our academic counselors, and her cell phone rang about five times during lunch. It was the students that she counsels.

What we are finding now is that the advent of cell phones has—all of our student athletes have cell phones. And they will call their counselor in the middle of the night. You know, am I supposed to—am I really supposed to go to this class tomorrow? Or, you know, I am supposed to go on a trip.

And so I think that the whole area of academic support is something that we really need to really get on hand about. And, you know, one of the things that I have always said that I think is missing out of some of the philosophy that comes down is really this whole adjustment and transition for these people into the college system.

We, unfortunately I would say, spent a lot more time, because we choose to—and I will use this word sort of loosely—“babysitting” student athletes where we don’t do that with any other student on the campus.

Mr. STEARNS. The gentleman’s time has expired.

Mr. TOWNS. Thank you very much, Mr. Chairman. You have been very generous.

Mr. STEARNS. Thank you, my colleagues, for staying, and I thank all the witnesses. We are complete with the hearing. I would say to the—Mr. Berst, that we will look forward to the report on April 20, the reforms that you propose. And I would say to Dr. Hoffman, and to all the presidents of a university, I would find out who that compliance coordinator is, and I would sure make sure that person is on board.

And some of the testimony has been very helpful for us, and I want to thank all of you for your time and efforts.

And the subcommittee is adjourned.

[Whereupon, at 12:33 p.m., the subcommittee was adjourned.]

[Additional material submitted for the record follows:]

TwinCities.com

PIONEER PRESS

Tom Powers
Pioneer Press Columnist
January 28, 2004

Ouch, somebody picked up the wrong folder. Clearly the Minnesota Golden Gophers got their football recruiting wires crossed on this one.

I guess this means that the recruit with the full-body tattoos and pierced tongue spent his official campus visit at a nearby church.

Meanwhile, they took straight-arrow Lydon Murtha to a local strip club, introduced him to some big-city Jezebels and scared him all the way to Nebraska.

What a mess. They had Murtha, a coveted offensive tackle from Hutchinson, Minn., all locked up. He had committed to play football right here in his home state for Coach Glen Mason.

Then Murtha made his official visit to campus in December, at which time his hosts exposed him to various debaucheries that changed his thinking about the University of Minnesota.

They should have known not to try to show him a wild time when Murtha showed up on campus carrying a Jell-O salad.

Apparently, the other recruits on this male-bonding junket with a gaggle of Gophers football players had no problem with the evening's entertainment. But it was too much for Murtha. Or, more likely, his parents got word of the festivities and it was too much for them. So they reeled in young Lydon before he wound up on the path to damnation. Now Murtha will play for the Nebraska Cornhuskers down in Lincoln, where they also have strip clubs, but they are hidden behind the sorghum fields. I just hope the kid doesn't stumble past one on his way to the apple orchard.

All those involved in this incident should be suspended on the grounds of sheer stupidity. And if alcohol was involved at any point during the visit, there could be serious legal ramifications.

By the time you read this, Athletic Director Joel Maturi already will have been jogging for eight hours. He'll be like Forrest Gump, running from coast to coast. That's how Maturi releases steam. And his blood has to be boiling.

Obviously, you can't blame the coaches when their players do dumb things off campus. But in this case, I'm considering making an exception. Mason and Co. tried to recruit this kid for a year and a half. After all that time and effort, they had to know something about Murtha's family background.

They always check on upbringing, family history and so forth. So it is amazing that, before Murtha arrived for his visit, somebody didn't relay some helpful background information to the party-animal hosts. . . . Something along the lines of: He prefers sock hops to lap dances.

Still, I'd like to know how it all unfolded during the lost weekend. This is a big boy we're talking about. I'm sure he wasn't kidnapped and then released in the Gold Room. A big "Nooo!" behind a clenched fist probably would have conveyed the message that he wasn't interested.

And at least one eyewitness says Murtha wasn't exactly climbing the walls to get out of the place, either. But Murtha insists he was pressured and made to feel uncomfortable until he went along with the crowd. Which is a good time to remember what your mother told you about your friend jumping off a bridge.

It's too bad because Murtha would have been first string if not for those G-strings. He was considered one of the top 50 recruits in the nation.

My biggest question: Is this standard procedure during recruiting visits? If so, it's no wonder the recruiting classes have improved. It used to be you got a pizza and a tour of the library.

I'm not naive. Many of us are glad there are no videotapes of our own college experiences. But the Gophers have sat on several live grenades over the years. They need to be cautious, more cautious than most, in how they conduct themselves. They don't need any incidents.

On a bright note, I hear the recruit with the pierced tongue may be getting baptized.

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February 17, 2004 Tuesday FINAL EDITION

SECTION: DENVER & THE WEST;

Pg. B-06

LENGTH: 495 words

HEADLINE: EDITORIAL What went wrong at CU?

BODY:

Were three women sexually assaulted by University of Colorado football recruits and players in 2001?

Are there deeper problems with the use of sex and alcohol as lures for football recruits?

Both are serious questions that deserve full investigation and honest answers.

We're reasonably confident the three women will get the hearings they deserve because they've taken their cases to federal court, an institution that works reasonably well.

But we're still concerned that the bigger questions about recruiting may not get full, timely or credible answers from officials at CU, an institution that seems increasingly dysfunctional.

The university's performance in handling alleged recruiting abuses has been spotty over the last seven years. After allegations about the athletic department started generating daily top-of-broadcast and front-page stories late last month, the CU Board of Regents and university officials looked just as amateur.

The first bright spot in the investigation came Monday with the announcement of the six panel members who will investigate the alleged recruiting abuses. All six have excelled in their careers and appear to be the fair-minded thinkers this investigation needs.

However, it doesn't change the fact that CU President Elizabeth Hoffman hand-picked the chairwomen who will lead the panel. Hoffman's close relationship with Athletic Director Dick Tharp and football coach Gary Barnett - and the fact she's the president of the university being investigated - should have precluded her from recommending the panel's leaders to the regents.

The fact that the panel wasn't created by an arm's-length process is one of the reasons this newspaper opposes giving the group subpoena power, should it request it.

The ability to subpoena a witness is a sweeping power that should be granted judiciously. Committees that aren't statutory - meaning they weren't created by lawmakers and have no specific controls, as a grand jury does - should almost never have subpoena powers.

Even the commission investigating the murders of 13 people at Columbine High School wasn't given these powers. Besides, most of the major players in this investigation are CU employees who probably can be persuaded to testify without subpoena.

The panel's first item of business should be deciding its priorities and the scope of the investigation. While the details of what happened during the 2001 recruiting parties are important, the wider concerns over recruiting and the culture of the athletic department need to be the focus.

The probe is needed and long overdue. We just hope the new panel, given the flaws in the process that created it, can restore credibility to the process and give Colorado taxpayers some clear answers about what's happening at CU and what needs to be changed for the future.

LOAD-DATE: February 18, 2004

Copyright 2004 Denver Publishing Company
Rocky Mountain News (Denver, CO)

February 14, 2004 Saturday Final Edition

SECTION: CITY DESK/LOCAL; Pg. 4A

LENGTH: 863 words

HEADLINE: EX-FOOTBALL STAFFER ADMITS HIRING ESCORT;
FORMER ASSISTANT SAYS WOMAN WAS FOR HIM, NOT CU RECRUITS

BYLINE: Owen S. Good, Charlie Brennan And B.G. Brooks, Rocky Mountain News, Staff writers Kevin Vaughan and Lynn Bartels contributed to this report.

BODY:

A former **University of Colorado** football recruiting assistant on Friday admitted using his university-provided cell phone to hire an escort service, but insisted it was only for himself.

"It was strictly for me," Nathan Maxcey told the Rocky Mountain News after an internal university inquiry uncovered the phone records.

The records bolster allegations by former escort service owner Pasha Cowan that an athletics department employee contacted her.

CU, which has taken fire for two weeks over the role of sex and alcohol in entertaining blue-chip talent, said its internal audit of the records began last week. The university turned the documents over to the Broomfield Police Department, which is investigating Cowan's claims.

Maxcey, reached in Utah, said he hired Cowan's services twice, and both times it was only for him, not for recruits or football players.

"The coaches didn't know about it," Maxcey said. "It didn't involve coaches, school funds, the Omni Hotel (in Broomfield) or recruits."

The university said the records on Maxcey's phone showed several calls placed to Cowan, the escort service and a chat line, ranging from one minute to 43 minutes. More details, including when the calls were placed, will be released next week.

The university said it has no information implicating other individuals.

"We have no evidence that any student or recruit was involved," said Dr. Richard Byyny, chancellor of the Boulder campus.

Maxcey worked in CU's football office from June 9, 2002, to July 16, 2003. He left to become the University of Utah's director of football operations, but left that university about three weeks ago.

Cowan's allegations came to light a week ago, when Broomfield police acknowledged they were investigating an alleged connection between CU's athletics department and possible criminal activity at a Broomfield hotel.

That investigation arose from claims Cowan made Jan. 30 to the Boulder County Sheriff's Office that university employees had hired her escorts. Boulder deputies sent the case to Broomfield because the allegations concerned their jurisdiction.

After news of the investigation broke Feb. 6, CU's director of football operations, David Hansberg, said he had heard the allegation from an unidentified woman who called Jan. 29. Hansberg said the woman asked for help getting a job.

"I took it as a false call," Hansberg said Feb. 6.

Cowan's attorney, Mark Johnson, told News 4's Rick Sallinger that the phone records are "the first step in verifying her claims."

Johnson said Maxcey told Cowan that he wanted women for "himself and others," and that the transactions involved "thousands of dollars."

"This raises questions as to who Maxcey worked for and where did the money come from?" Johnson told News 4.

CU began its audit as soon as the allegations were made public.

Neither the NCAA, which announced a task force to develop tougher recruiting standards, or Boulder District Attorney Mary Keenan, whose civil case deposition triggered the current firestorm of controversy surrounding CU, would comment on Friday's revelation.

"I don't think I should comment, as it's probably going to be connected to the civil case," said Keenan.

Friday's revelation was the latest in a string of damaging disclosures for the university. Earlier this week, a man who owns a stripper service said his dancers were routinely hired by CU football players.

"Once a story reaches this proportion, all the different pieces of it, the reputational damage will be there," said CU Director of Athletics Dick Tharp. "I've been involved in lot of big stories in 34 years . . . and I know that 10 years from now, people will say isn't that the school that had the (sex) scandal?"

CU Regent Susan Kirk said she was "overwhelmed" by the latest news. "I think the administration, and the president, will be as proactive as needs be," she said.

In the statement announcing the finding, Byyny and CU President Betsy Hoffman repeated their commitment to investigate the allegations, and vowed to take "swift, decisive and appropriate action" if they received credible information.

Byyny said he wants the answers to two questions: "What were these (calls) about? And was anybody else involved?"

Jane Cracraft, a prominent Denver private investigator, said that if Maxcey hired Cowan's service for something other than personal use, a major concern to the university would be identifying the funds used to pay her.

"If an escort service was invited to a gathering where recruits were present, someone had to pay the bill," Cracraft said. "I'm sure it's a concern to the athletic department and the university to know where this money came from.

"Someone had to provide the cash to bring them over, and then provide tips. I can imagine college students being able to pass the hat, and come up with beer money or gasoline for a car, but I can't imagine them being able to pass the hat and come up with \$400 or \$500 dollars."

From mere phone records, Cracraft said, "You can't tell if he was making arrangements for himself, or for a friend's bachelor party, or if in fact he was hiring this service for recruits."

NOTES: CU RECRUITING SCANDAL;
Banner p.1A - CU AIDE HIRED ESCORT SERVICE / EX-RECRUITER: COACHES DIDN'T KNOW: CALLS
'STRICTLY FOR ME.'

LOAD-DATE: February 17, 2004

Colorado Crackdown On Football

AURORA, Colo., March 5, 2004

No bars, no strip clubs and no private parties. All activities will be chaperoned. And curfew is 11 p.m.

The University of Colorado clamped strict new rules on football recruiting visits Thursday, hoping to sanitize its reputation after allegations that some recruits were entertained with sex, drunken parties and professional strippers. Other players or recruits were accused of rape.

"Any recruit who violates recruitment standards will not be admitted to the university," Chancellor Richard Byyny said. "Violations by current student-athletes and coaches will result in disciplinary action appropriate to the level of severity of the violation.

"We want to make sure students understand they are here first for an education," Byyny added.

Byyny and university president Betsy Hoffman said the new guidelines are the strictest in the nation.

"Recruits are prohibited from attending private parties, entering bars or strip clubs. All activities attended by recruits will be planned, approved and supervised by a designated coach."

Asked if the rules will hurt recruiting, Byyny said: "It really doesn't matter. We want to have a model program."

The university is trying to restore its image after seven women accused Colorado football players or recruits of rape since 1997.

The school faces federal lawsuits by three of the women who say they were raped at, or just after, a 2001 off-campus party attended by players and recruits. Witnesses have said many of the participants were drunk.

Players also have been accused of hiring strippers for recruits.

Boulder County prosecutor Mary Keenan has said she believes the football program offered sex and alcohol to lure recruits to Boulder, a claim university officials have denied.

Football coach Gary Barnett is on paid leave for remarks he made in connection with two of the rape allegations, including disparaging the athletic ability of a former player who said she was raped by a teammate in 2000.

No sexual assault charges have been filed in any of the cases.

The Board of Regents has appointed a panel to investigate, and Gov. Bill Owens tabbed the state's attorney general as a special prosecutor to determine whether criminal charges should be filed.

The scandal helped spur a congressional hearing on college recruiting practices, scheduled for next week.

A National Collegiate Athletics Association task force will look at recruiting practices this spring. NCAA spokesman Jeff Howard said Colorado's moves sounded like a good idea.

"Obviously, the university's leadership is moving in a direction that will help ensure that any recruiting practices in the future adhere to the university's strict guidelines," he said.

Hoffman said she didn't want to wait on the investigations before changing policies.

"The university can't stop just because we have an investigation going on," she said. "We have to make decisions as we go along."

Hoffman said some of the changes have been discussed for more than two years and were consistent with what

Barnett was considering before he was put on leave.

"There's no question circumstances have thrust us into taking a national leadership role in reforming college sports recruiting," Hoffman said. "I suspect other universities will follow some of the leads we've been taking."

The recruits, primarily high school players, will visit the Boulder campus only during the off-season, when coaches and athletes have more time for them.

Players will meet with the recruits, but will no longer serve as their hosts. All activities will be planned and approved by a coach and supervised by a coach or parent.

The recruits' curfew was moved up two hours. Coaches had long said the old 1 a.m. curfew was the latest one at the Division I level.

Athletic director Dick Tharp said the new policies would be evaluated for other athletic programs.

Former player Charles Johnson said the new rules only add to the perception that football players "are a danger to our campus and we have to reduce their exposure to the campus in order to either keep them or other students on campus safe."

"It's wrong," he said.

Tharp responded: "This is not to say that we believe that we somehow have an aberrant program. We're just trying to advance ourselves along this process."

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